



An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report ABP-311181-21**

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#### **Strategic Housing Development**

591 no. residential units (76 no. houses, 515 no. apartments), childcare facility and associated site works.

#### **Location**

Former Bray Golf Club Lands, Off Ravenswell Road and Dublin Road, Bray, Co. Dublin and Co. Wicklow. ([www.coastalquartershd.com](http://www.coastalquartershd.com))

#### **Planning Authority**

Wicklow County Council

#### **Applicant**

Shankill Property Investments Ltd.

#### **Prescribed Bodies**

Department of Housing, Local Government and Heritage; Irish Rail; Irish Water; NTA; TII.

<b>Observer(s)</b>	Anne Marie Byrne; Avril Power; Barry O'Connor; Bryan Glynn; Colum Kenny; Erika Doyle and Steven Matthews; Joan Conway and Howard Gibbins; John Conway and the Lough Environmental Group (BKC Solicitors); Marcia Nicholson; Mary Dorothy; Noeleen McManus; Rachel Immel; Tessa Stewart.
<b>Date of Site Inspection</b>	13 <sup>th</sup> November 2021
<b>Inspector</b>	Una O'Neill

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## **1.0 Introduction**

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## **2.0 Site Location and Description**

- 2.1. The site is located to the northwest of Bray Town Centre and is within the administrative boundary of both Wicklow County Council (southern portion of the site) and Dun Laoghaire Rathdown County Council (northern portion of the site). The Dublin-Bray Railway line is located to the eastern boundary of the site and the M11 and R761 roads are located further west. A new link street from the R761 connects east from the R761 serving adjoining school sites, with this route connecting south to the Upper Dargle Road (temporary vehicular connection) and to the east to the application lands. The street terminates for vehicles east of the application site at the railway underpass, where there is pedestrian/cyclist connection only to the Harbour, north beach and town centre.
- 2.2. The development site is bounded along its eastern extent by the Dublin-Rosslare railway line/Dublin-Bray DART line. On the eastern side of the train line (approx. 60 east of the train line) is a coastal path which travels south to Bray Harbour and north towards Shanganagh. The site is approx. 100m back from the coastline. To the immediate north of the site is Corke Abbey Valley Park (public open space) and northwest is Corke Abbey residential development; to the west is the grounds of Ravenswell School Campus (primary and secondary schools) built in recent years; and to the south is the existing access link street which serves the schools and these undeveloped lands. In terms of topography the site slopes from the north to the south, from c. 11mAOD to 1.5m AOD, dropping more steeply to the south of the link street, onto existing undeveloped lands, which are within the floodplain of the River Dargle. The river Dargle has been subject to flood alleviation works with the delivery along the northern boundary of the river of a formalised promenade and public amenity space, which connects via a pedestrian/cyclist pathway to the application site and railway underpass.

- 2.3. The site comprises mainly grassland, as a result of its former use as a golf course, with a section of hardstanding / gravel surfaced area which has become overgrown. In this area there is an existing underground Irish Water foul storage tank and above ground odour control unit, which is accessed directly off the link street. This tank is used as an emergency overflow tank by Irish Water, and is proposed to remain in that location as part of the proposed development. There are existing wayleaves along the northern and eastern boundaries of the site related to the foul network with a wayleave connecting from the underground tank to the east to the existing foul pipeline. There is an archaeological site comprising a linear earthwork (Ref. WI004 – DU026-124) running along the administrative boundary of Wicklow County Council and Dun Laoghaire County Council through the centre of the lands. Lands to the south, which are also zoned for development, are currently under grassland.
- 2.4. The wider area to the west/north comprises generally low density two storey residential developments and associated retail/commercial/amenity services to serve this population, with lands to the south comprising a greater mix of uses associated with the town centre of Bray.

### 3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the construction of 591 units, of which 515 are apartments and 76 are houses. The following tables set out some of the key elements of the proposed scheme as stated by the applicant:

Table 1 Key Figures

<b>Site Area</b>	9.73 ha gross / 7.2 ha net
<b>No. of Residential Units</b>	591
<b>Density</b>	82 units per hectare
<b>Other Uses</b>	1x retail unit 'convenience store' (249 sqm) 2x commercial units (295sqm) 1xcafe (195 sqm)
<b>Childcare Facility</b>	627sqm, with capacity for 88 childcare spaces

<b>Height</b>	Block A – 4-8 storeys (166 apts) Block B – 4-8 storeys (191 apts) Block C – 3-6 storeys (80 apts) Block D – 4 storeys (26 apts) Duplexes – 3 storeys (52 duplexes) Houses – 2-3 storeys (76 houses)
<b>Dual Aspect</b>	55%
<b>Communal Open Space</b>	c. 6182
<b>Public Open Space</b>	c. 12179sqm + 2782sqm
<b>Part V</b>	62 units (28 in DLRCC and 34 in WCC)

Table 2 Unit Mix

	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>Apartments</b>	171	288	4		463
<b>Duplexes</b>		26	26		52
<b>Houses</b>		13	51	12	76
<b>Total</b>	<b>171</b>	<b>327</b>	<b>81</b>	<b>12</b>	<b>591</b>
<b>As % of total</b>	<b>30%</b>	<b>55%</b>	<b>13%</b>	<b>2%</b>	<b>100%</b>

Table 3 Parking

<b>Car Parking</b>	506 for residential uses (474 for residents; 32 for visitors)  35 in The Orchard car park for staff parking and 4 set down spaces.
<b>Bicycle Parking</b>	1402 no. bicycle parking spaces for the apartments, comprising, 890 no. resident apartment spaces at undercroft level and 256 no. visitor spaces (of which 136 no. at undercroft level and 120 no. at surface level).

	30 non-residential cycle spaces.
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3.2. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject to a valid connection agreement being put in place and conditions listed, the proposed wastewater connection to the Irish Water network can be facilitated.

3.3. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:

Planning Report and Statement of Consistency

Statement of Material Contravention

Childcare Demand Analysis

Statement of Proposals

School Demand & Concentration Report

Unit Mix Report

Harbour Point, Bray Masterplan Document

Architectural Design Statement

Housing Quality Assessment

Landscape Design Strategy

MEP Engineering Report & Energy Statement

Engineering and Planning Report

Flood Risk Assessment

Traffic and Transport Assessment

Mobility Management Plan

DMURS Statement

Stage 1 Quality Audit

Stage 1 Road Safety Audit  
Building Lifecycle Report  
Public Lighting Report  
Stormwater Impact Assessment Report  
Natura Impact Statement  
Environmental Impact Assessment Report  
Construction Management Plan  
Outline Construction Environmental Management Plan  
Outline Operational Waste Management Plan  
Outline Construction Waste Management Plan  
Daylight and Sunlight Assessment Report  
Tree Survey Report  
Wind Microclimate Modelling  
Property Management Strategy Report

#### 4.0 Planning History

The following application is currently before the Board (overlaps with link street to application site):

**311071** – EIA Screening Determination under Article 140, related to LA proposal for construction of the Bray Sustainable Transport Bridge, link road and associated works.

The following two history applications were submitted at the same time and granted permission by ABP-

This following application relates largely to the area of the current application (excluding a section to the southwest):

**PL06D.230215 (DLR Ref Ref D07A/1495)** – Permission GRANTED for a period of 10 years for 338 residential units. The scale of development permitted ranged



between 2 and 8 storeys, with the predominant height being 5 to 6 storeys. The form of development centred around a central boulevard running north – south and Blocks to the east facing the coast were U or L shaped with courtyards facing east towards the sea.

**D07A/1495/E1** – Extension of duration of application lodge. FI requested on 25<sup>th</sup> November 2020 but a response was not received.

The following application relates largely to the land mainly to south of the current application site (part of site application site boundary with area of permitted application):

**ABP Ref. PL39.230246 (Bray TC Reg Ref. 07630194)** – Permission GRANTED in June 2010 for a mixed use development comprising 601 no. residential units, c.58,243 sq. metres of retail, c.5,800 sq. metres of office, cinema (5,237 sq. metres), hotel, bars, restaurants, 2 x creches, medical surgery, community building, and GAA pitch, on the former Bray Golf Club lands. Permission was granted by the Planning Authority and ABP.

**Reg Ref 20672** – Extension of duration of permission granted until 2025.

The following applications relate to the surrounding area:

**PL06D.244874, Reg. Ref. D15A/0112:** Permission granted in 2015 for an access road to serve schools within the former Bray Golf Club lands.

**ABP Ref. PL39.YA0003 / XA0001** – Permission granted by the Board for the undertaking of the River Dargle (Bray) Flood Defence Scheme, including Boardwalk – approved by ABP in 2008. Completed in 2017 by WCC and OPW.

**HA0020/KA0013** - The Board approved the application by DLRCC for the Dublin Road Improvement Scheme (DRIS) and confirmed the compulsory purchase order. The scheme, which required demolition of a protected structure was described as extending over a distance of one kilometre and following the route of the existing Dublin Road from just south of Sunnybank junction (with the Upper Dargle Road) to just north of the Wilford roundabout and including works at Sunnybank, Saint Peter's Road, Old Connaught Avenue, Corke Abbey Avenue and Wilford junctions with the

Dublin Road and other works and the upgrading of Wilford roundabout to an enhanced capacity signalised junction under the scheme.

The following application relates to SHD permission at Shanganagh, c. 1.5km north of the site:

**ABP-305844-19 (SHD)** – Permission GRANTED for 685 residential units (2-8 storeys high) at Shanganagh, Woodbrook, Co. Dublin.

## **5.0 Section 5 Pre Application Consultation**

5.1. A Section 5 pre application consultation (Ref. ABP-308291-20) took place via Microsoft Teams due to Covid-19 restrictions on 15<sup>th</sup> December 2020.

Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

5.1.1. The following was requested:

### **Design and Layout**

1. Further consideration / amendment or justification of the design and layout of Block 1C to provide a strong urban edge for the development, in particular the ground floor uses on the southern elevation which front onto the 'Market Square' and future potential Luas Line.
2. Further consideration / amendment or justification of the scale and bulk of Block 1D having regard to the residential amenities of the adjoining properties and the visual amenities of Woodbrook Glen and the open space zoning objective of lands located to the north of the site.
3. Further consideration / amendment or justification of the proposed surface level car parking at 'The Orchard' along the southern site boundary, having

regard to the proximity to existing and proposed public transport infrastructure and the potential negative impact of surface level car parking on the public realm.

## **Water Services**

4. Further consideration of the relocation of Irish Water infrastructure located underneath 'The Orchard' in the south west portion of the site having regard to its potential negative impact on the development potential of the site and the public realm. In the event that the infrastructure is not to be relocated then a justification should be submitted at application stage that seeks to address, *inter alia*, the potential negative impact on the development potential of the site and the public realm at this location.
5. Further consideration / amendment or justification of the design of the storm water management proposals, including the location of attenuation tanks, having regard to existing underground infrastructure within the site and to all available flood maps / information regarding the potential for pluvial, fluvial and coastal / tidal flood risk within the site. A site-specific Flood Risk Assessment should be submitted. Further consideration of the concerns raised in the report of Dun Laoghaire Rathdown County Councils Drainage Planning Section dated 12<sup>th</sup> October 2020 and concerns raised under the Drainage section of Wicklow County Councils written opinion dated 28<sup>th</sup> October 2020.
6. Further consideration / amendments of the documents as they relate to foul water drainage proposals to service the development. The documents should provide details of necessary upgrade works required to facilitate the development to include, *inter alia*: plans and particulars, having regard to the wastewater network constraints raised by Irish Water in their report dated 22<sup>nd</sup> October 2020.

## **Transportation**

7. Further consideration of the documents as they related to access and emergency access to the site. Clarity is to be provided concerning who is to deliver the proposed road network; the status of any planning and other consents required to deliver the infrastructure; the timelines involved in the

delivery of the required infrastructure in the context of the proposed strategic housing development. Further consideration of the concerns raised in the report of Dun Laoghaire Rathdown County Councils Transportation Planning Section dated 13<sup>th</sup> October 2020 and concerns raised in the report of Wicklow County Councils Roads Section dated 15<sup>th</sup> October 2020.

5.1.2. The following specific information was requested:

1. A report that addresses and provides a clear design rationale for the proposed height, density, design and character of residential units and details of the materials and finishes of the proposed development. Particular regard should be had to the requirement to provide high quality, robust and sustainable finishes and details which seek to create a distinctive character for the development, having regard to the coastal and highly visible location of the site.
2. A report that addresses and provides a justification for the proposed housing mix.
3. A building life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
4. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority, and the phased delivery of such public open spaces.
5. A phasing plan for the proposed development which includes the phasing arrangements for the delivery of the public open spaces and Part V provision.
6. Childcare demand analysis, including but not restricted to the justification for size of the proposed crèche, having regard to the existing childcare facility in the vicinity of the site, the likely demand and use for childcare places and the accommodation of additional requirement resulting from the proposed development.
7. School Demand and Concentration Report, which identifies demand for school places likely to be generated by the proposal and the capacity of existing schools in the vicinity to cater for such demand.

8. A landscape and permeability plan of the proposed open spaces within the site clearly delineating public, semi-private and private spaces, areas to be gated and proposed boundary treatments, in particular the eastern boundary at the interface with the railway line.
9. Submission of a Traffic and Transport Assessment, including a quality audit of the junctions and road network between the proposed entrance and Castle Street / Dublin Road. The audit should include details of the capacity of the surrounding road network and the impact of the proposed development, details of available sightlines, pedestrian and cycle facilities and recommendations for potential improvements to the public road, if required.
10. Submission of an Archaeological Impact Assessment.
11. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format. The notice and statement should clearly indicate which Planning Authority statutory plan it is proposed to materially contravene.

## **5.2. Applicant's Statement of Response to ABP Opinion**

- 5.2.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the information points raised in the Opinion.
- 5.2.2. The following points are noted:

Issue 1: The façade of Block C which addresses Market Square has been modified on foot of the Board's notice so that the individual entrances to housing units have been replaced with a retail convenience store, café and residential lobbies. The

provision of a more active frontage facing onto this public meeting space...will create a stronger urban edge at this key nodal point within the Coastal Quarter and the wider masterplan. This mixed use arrangement has been extended further eastwards with commercial units also proposed on the southern elevation to Block B further strengthening this east-west pedestrian route linking the development with Bray Harbour. Figure 2.11 shows the proposed diverted gravity sewer from the stormwater tank to Bray Pumping Station traversing the 'Market Square' space to the front of Block C.

A landmark building will be provided on the south side of Market Square and will be the subject of a future planning application [on part of site of proposed Coastal Gardens].

Issue 2: Block D has been moved east by 2m and south by 2m increasing the distance from the existing house to 20.5m. The scale has been reduced from 5 to 4 storeys. The 4<sup>th</sup> floor has been set back to the west and east. No balconies are provided on the western side. Windows on the west will be smaller windows to provide the apartments with a secondary orientation. The balustrade of the rooftop terrace facing west is set back from the building parapet so there is no overlooking of neighbours back gardens. A particular house type in which a number of first and second floor gable windows have been removed has been designed and placed on the end of terrace duplex apartments closest to Corke Abbey. Existing trees on the western boundary will be retained.

Issue 3: The surface car park called 'The Orchard' sits above a critical piece of Irish Water infrastructure associated with the Bray Pumping Station to the south of the River Dargle. The Irish Water infrastructure cannot be relocated and the range of uses that can be situated on the site above the tank is limited. There is also a requirement for service vehicles manoeuvring within the site for tank maintenance. The surface of the area above the tank will include a MUGA, a dedicated dog exercise park, informal soft landscape areas, secure rental bike stores and ancillary car parking of 35 spaces to cater for staff of the mixed uses proposed within Blocks B and C (max allowable is 49). The area of soft landscape to the north of the car park will be open to the public and will be planted with ornamental fruit trees to define the orchard character of the open space. The car park, MUGA and dog exercise park will be secured and retained under the control of a management

company. Access will be facilitated by controlled gates. Further detail is provided in the Property Management Strategy Report. There is the potential to create a direct access to the school by agreement to allow the MUGA to be used by pupils as an additional community resource for the school. This access is indicated on the layout plans. A matching low stone wall and railing is softened by hedge and tree planting and flows into a higher stone wall that defines the entrance to the development. This higher stone wall will carry a name sign to mark it as a primary entrance to the Coastal Quarter development (see figure 2.10).

Issue 4 – Water Services - The purpose of the existing tank under The Orchard is to store foul and/or storm water during exceedance events at Bray Pumping Station. Following discussions with Irish Water, DLRCC and WCC with respect to the nature and function of the infrastructure, no proposal is being submitted to move it from its current location. Instead a design has been brought forward which maximises the quality and usability of the space, integrates this constraint into the design solution for the overall site and minimises any perceived negative impacts on the urban design and layout of the Coastal Quarter and the resulting public realm. Minor diversion works will however be carried out to both the existing rising main and gravity return sewer within the application site boundary in order to facilitate the construction of the proposed Market Square.

Issue 5 – Storm Water Management - A Storm Water Impact Assessment and site-specific Flood Risk Assessment (FRA) have been prepared.

Item 6 – Foul Water Drainage - The Engineering Planning Report prepared by Atkins sets out the proposed foul water management proposals for the site. Points raised in the report of DLRCC dated 12th October 2020 and WCC dated 28th October 2020 are addressed in Appendix D to the Engineering Planning Report prepared by Atkins.

Issue 7 Transportation –

The proposed development will be accessed via 2 no. existing vehicular accesses onto the R761 (Dublin Road / Castle Street) from the Ravenswell Road Junction and from the Northern Access Road in addition to 3 no. dedicated pedestrian and cycle accesses from the Ravenswell Road, the railway line underpass from Bray Harbour and Corke Abbey Valley Park.

The proposed link with Bray Harbour is via an existing underpass beneath the existing rail line. The applicant can confirm that Irish Rail and WCC have concluded a license agreement allowing WCC to continue to operate the underpass for pedestrian and cycle access on a 24 hour basis, along with installing appropriate and approved vehicle barriers on both approaches. The subject application does not propose to do any works to the underpass but rather facilitates connectivity to it as an alternative route to the Dargle River Walk which provides high quality pedestrian and cyclist access to the Bray town centre.

No other additional consents are required for access infrastructure necessary for the delivery of this scheme. It is noted that as part of the future proofing of the site the proposed development has been designed with cognisance of the potential Luas line and proposed public transport bridge, which is now the subject of a Part 8 consent process (ref PRR 21869). The Coastal Quarter is not however reliant upon the future delivery of the bridge or the Luas.

The proposed internal road network shall be provided by the applicant.

In terms of emergency access provision, the development is served by 2 no. vehicle access points onto the link road with a further fire tender access via the open space adjacent the DART railway line as indicated on Figure 2-13 below. The Eastern Development Road facilitates emergency vehicles to mount the kerb and traverse the footpath and cycle path in the unlikely event that the main carriageway of this road is blocked.

The emergency access road which routes through the open space provision will consist of reinforced grass construction and will in part overlap with the paths proposed within the open space. The landscape scheme has been designed to accommodate the emergency access and road levels can be accommodated by the existing ground levels so as not to raise levels in this flood zone area. The need for the temporary secondary emergency access route will be replaced once the public transport bridge proposed under Part 8 is built.

I further note in terms of changes that Block A has been redesigned since the pre-application stage.



- 5.2.3. The specific information to be submitted by the applicant is addressed in the Statement of Response and the requested information has been submitted.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

#### **6.1.1. Project Ireland 2040 - National Planning Framework**

A number of key national policy objectives are noted as follows:

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Planning Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### **6.1.2. Section 28 Ministerial Guidelines**

The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)

Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)

Urban Development and Building Height Guidelines for Planning Authorities (2018)

Design Manual for Urban Roads and Streets (2013)

Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

## **6.2. Regional Policy**

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

The site is located within the 'Dublin Metropolitan Area'. Bray is designated as a Key Town within the Dublin Metropolitan Area.

The Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, sets out a number of Guiding Principles for the sustainable development of the Dublin Metropolitan Area, including:

- Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate

housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

- Integrated Transport and Land use – To focus growth along existing and proposed high quality public transport corridors and nodes on the expanding public transport network and to support the delivery and integration of ‘BusConnects’, DART expansion and LUAS extension programmes, and Metro Link, while maintaining the capacity and safety of strategic transport networks.

The MASP seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion.

Bray is located on the north-south DART corridor. It is envisioned that this corridor could accommodate a total population increase of 51,000.

Lands at the former Bray Golf course are identified for development of new residential communities and it is stated that the delivery of new mixed-use development of Bray Golf course and Harbour Lands will provide for consolidation within the established town.

It is stated that Bray has access to high quality public transport including DART services and is at the terminus of the proposed Luas Green Line extension, with excellent potential to promote sustainable mobility and achieve the vision of ‘walkable’ communities.

With regard to infrastructure Table 5.1 notes that a short term aim is for an access road, new station at Woodbrook – Shanganagh, and Access to Bray station and Public Transport bridge.

The following Regional Policy Objective (RPOs) are of note:

**RPO 3.2** - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin City and suburbs and a target of at least 30% for other urban areas.

**RPO 4.37:** Support the continued development of Bray including the enhancement of town centre functions, development of major schemes at the former Bray golf course and Bray harbour...

**RPO 4.39:** To promote the consolidation of the town centre with a focus on placemaking and the regeneration of strategic sites to provide for enhanced town centre functions and public realm, in order to increase Bray's attractiveness as a place to live, work, visit and invest in.

**RPO 4.40:** To support ongoing investment in public transport infrastructure, including the appraisal, planning and design of the LUAS extension to Bray. The development of Bray-Fassaroe should be undertaken in collaboration between Wicklow County Council, Dún Laoghaire-Rathdown County Council and the transport agencies to ensure the delivery of enabling transportation infrastructure and services.

**RPO 4.41:** Encourage transition towards sustainable and low carbon transport modes through the promotion of alternative modes of transport and 'walkable communities' whereby a range of facilities and services will be accessible within short walking or cycling distance

**RPO 5.4:** Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities'.

**RPO 5.5:** Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

### **6.3. Local Planning Policy**

#### **6.3.1. Dun Laoghaire Rathdown Development Plan 2016-2022**

The subject site is governed by two zoning objectives:

- Zoning Objective A, which seeks to 'protect and or improve residential amenity'

- Zoning Objective F, which is ‘to preserve and provide for open space with ancillary active residential amenities’ (relates to strip of land along the northern and eastern section of the site).
- Map based Specific Local Objective SLO82: ‘to upgrade and enhance the linear park at Woodbrook Glen-Cork Abbey’.
- Map based Local Objective ‘to protect and preserve trees and woodlands’.
- Record of Monuments and Places – DU-026-124: Linear Earthwork – Possible Site - there is a national monument located within the site which comprises a linear earthwork, which may form part of the Pale Ditch and runs along the administrative boundary between Wicklow County Council and Dun Laoghaire Rathdown County Council.

The following policies are noted:

**Policy UD1:** It is Council policy to ensure that all development is of high quality design that assists in promoting a ‘sense of place’. The Council will promote the guidance principles set out in the ‘Urban Design Manual – A Best Practice Guide’ (2009), and in the ‘Design Manual for Urban Roads and Streets’ (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

**Policy UD6:** It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

## **Section 2 Sustainable Communities Strategy**

Chapter 2 outlines that the Council is required to deliver c.30,800 units over the period 2014 – 2022. It is stated that the Council in seeking to secure this objective will focus on three strands, namely: increasing the supply of housing; ensuring an appropriate mix, type and range of housing; and, promoting the development of balanced sustainable communities.

**Policy RES3:** It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide

for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines: • ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009). • ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009). • ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007). • ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoECLG, 2013). • ‘National Climate Change Adaptation Framework - Building Resilience to Climate Change’ (DoECLG, 2013).

Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectare.

**Policy RES7:** It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.

**Policy ST3:** It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009 –2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy.

**Policy ST15:** It is Council policy to promote, facilitate and co-operate with other agencies in securing the extension of the Luas network in the County as set out in the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’ and including any future upgrade to Metro

## **Section 8 Development Management**

S. 8.2.3.1 Quality Residential Design - Density - Higher densities should be provided in appropriate locations. Site configuration, open space requirements and the characteristics of the area will have an impact on the density levels achievable.

S.8.2.3.2, Quantitative Standards, (ii) Residential Density - In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location and accessibility to public transport. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied... In Dún Laoghaire-Rathdown, apart from in exceptional circumstances, minimum residential densities should be 35 dwellings per hectare.

S.8.2.3.3(iii), Mix of Units – Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.

S.8.2.3.3(vii) Minimum Apartment Floor Areas - All apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas, as set out in the Table 8.2.2. below....One bedroom, 55sqm; two bedroom, 85-90sqm; three bedroom, 100 sqm.

S.8.2.3.5 Residential Development – General Requirements – (ii) Habitable Room Sizes: The minimum size of habitable rooms for houses/ apartments/and flats shall conform with appropriate National guidelines/standards in operation at the date of application for planning permission, including the minimum dimensions as set out in 'Sustainable Urban Housing: Design Standards for New Apartments' and 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007)

S.8.2.4.5 Car Parking Standards - The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the

site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. The Council considers the application of maximum parking standards for non-residential land uses to be a key measure in influencing the travel mode choice for all journeys...Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/business areas.
- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- The availability of on-street parking controls in the immediate area.
- The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.
- Other agreed special circumstances where it can be justified on sustainability grounds.

Table 8.2.3 Residential Land Use - Car Parking Standards.

Table 8.2.4 Non Residential Land Use – Maximum Car Parking Standards.

Table 4.1 sets out the cycle parking standards.

### **Appendix 9: The Building Height Strategy**

Section 4.8.1 Upward Modifiers: It is stated that Upward Modifiers may apply where:

the development would create urban design benefits;

would provide major planning gain;

would have a civic, social or cultural importance;

the built environment or topography would permit higher development without damaging appearance or character of an area;

would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and,

the size of the site of e.g. 0.5 ha could set its own context.

To demonstrate that additional height is justified, it will be necessary for a development to meet more than one 'Upward Modifier' criteria.

### **6.3.2. Draft Dun Laoghaire Rathdown County Development Plan 2022-2028**



NOTE: Material Alterations to the Dún Laoghaire-Rathdown County Council Draft County Development Plan, 2022-2028 are now on public display from Thursday 11th November, 2021 to Thursday 9th December, 2021.

### 6.3.3. **Wicklow County Development Plan 2016-2022**

#### Chapter 3 - Settlement Strategy

Bray is identified as a Metropolitan Consolidation Town.

Table 2.8, 'Housing and Zoning Requirements', notes there is a shortfall of zoned lands in Bray to accommodate the proposed population growth outlined in the core strategy. It is considered that a future LAP for Bray town and environs/a Bray Municipal Area Local Area Plan shall address the zoning shortfall in Bray.

#### Chapter 4 Housing

**Objective HD5** In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands(1). The Council reserves the right to refuse permission for any development that is not consistent with this principle.

(1) Unless specific in the relevant local plan, the density objective for any particular lands shall be drawn for the principles set out in the Development and Design Standards appended to this plan.

**Objective HD13** Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighborhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station.

**Objective HD15** Within medium to large scale housing developments, a range of unit types / sizes shall be provided, including bungalows (this requirement does not apply to apartment only developments).

**Objective HD17** The maximum size of any single 'housing estate' shall be 200 units and developments that include more than 200 units should be broken into a number of smaller 'estates', which shall be differentiated from each other by the use of materially different design themes.

**Objective NH 1** To ensure that the impact of new developments on biodiversity is minimised and to require measure for the protection and enhancement of biodiversity in all proposals for large developments.

### **Chapter 8: Community Development**

- **CD31** All new neighbourhood parks or active open space zones shall include a 'mixed use games area' (MUGA) of an appropriate size and nature to be determined in, pre-consultation with the Community, Cultural & Social Development Office of Wicklow County Council.
- **CD43** To require open space to be provided in tandem with new residential development (in accordance with the standards set out in the Development & Design Standards Appendix).
- **CD46** All open spaces shall be provided with environmentally friendly lighting in order to ensure their safe usage after day light hours (refer to 'Light pollution' section of Chapter 9 of this plan).

### **Chapters 9: Infrastructure**

**Objective TR2** To promote the development of transport interchanges and 'nodes' where a number of transport types can interchange with ease. In particular:...

to promote the linkage of the LUAS extension or other mass transit to Bray town centre, Bray train station and Fassaroe.

**Objective TR35** New / expanded developments shall be accompanied by appropriate car parking provision, with particular regard being taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. At such locations, the car parking standards set out in Appendix 1 Table 7.1 shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified.

### **Chapter 10 Heritage**

**BH2** Any development that may, due to its size, location or nature, have implications for archaeological heritage (including both sites and areas of archaeological potential / significance as identified in Schedule 10.01 & 10.02 and Map 10.01 & 10.02 of this plan) shall be subject to an archaeological assessment. When dealing with proposals

for development that would impact upon archaeological sites and/or features, there will be presumption in favour of the 'preservation in situ' of archaeological remains and settings, in accordance with Government policy. Where permission for such proposals is granted, the Planning Authority will require the developer to have the site works supervised by a competent archaeologist.

### **Appendix 1 Development Design Standards**

The maximum size of any greenfield housing development will depend on the size of the town and the requirements of the town plan / local area plan, but shall not be greater than 100 units where only traditional houses are proposed or 200 units where there is a mix of houses and apartments. Any development exceeding this number shall be broken up into a number of distinct 'estates', even if accessed from a shared road, with materially different architectural styles.

#### **Intensity of Development (Density):**

The density that can be achieved on any site will ultimately depend on compliance with 'qualitative' standards such as fit with surroundings, height, open space provision, adequate privacy, car parking etc and the density ultimately proposed should be the outcome of the design process rather than the starting point;

In certain circumstances, such as brownfield sites in urban areas or sites in very close proximity to a high quality, reliable public transport network, departures from the maximum density standards specified may be considered, subject to the highest quality of design;

Where a new 'neighbourhood' centre forms part of a large-scale greenfield expansion area, plot ratio in the neighbourhood hub (i.e. only that area forming an integrated part of the shopping / community facilities provided) may be allowed to increase to 1:1.

A plot ratio of 0.5:1 or 5,000sqm per hectare would be the equivalent of 40 houses of 125sqm to the hectare or 16 houses to the acre. Expressing the density allowable in terms of sqm per hectare allows for density to be adjusted where houses are larger or smaller than 125sqm (for example, if all houses

were 100sqm, 50/ha would be allowable whereas only 25/ha would be possible if all houses were 200sqm);

A plot ratio of 0.35:1 or 3,500sqm per hectare would be the equivalent of 28 houses of 125sqm to the hectare or 11 houses to the acre.

**Design Quality:**... Layouts shall ensure adequate sunlight and daylight, in accordance with "Site layout planning for daylight and sunlight: a guide to best practice", (BRE 1991);

**Building Design:** ...The design of new buildings shall accord with the following requirements:

– External Appearance: Good modern architecture with a building language that is varied and forward-looking rather than repetitive and retrospective will be required; however, reference and 'clues' must be drawn from surroundings, particularly in traditional or protected town centre areas;...Where a development takes the form of more than one structure (i.e. a number of apartment blocks or a multitude of individual houses), adequate variety in form, height, materials etc shall be employed, within an overall unified theme, to provide for visual diversity.

**Public open space** shall be provided in accordance with the standards set out in Section 6. In particular,

- public open space will normally be required at a rate of 15% of the site area - areas within the site that are not suitable for development or for recreational use must be excluded before the calculation is made;
- the need to provide public open space in town centre developments may be waived if the development specifically achieves other overriding aims of this Plan, particularly where public amenity space such as a town park or beach is in close proximity;
- in greenfield developments, a hierarchy of open spaces shall be provided to provide for the different play needs of different age groups and all efforts shall be taken to ensure that all houses are in visual range of one open area;
- Spaces less than 10m in width or 200sqm in area will not be counted as useable public open space; nor will space that is excessively sloping or otherwise unsuitable for usage.

#### 6.3.4. **Draft Wicklow County Development Plan 2021-2027**

NOTE: The Draft County Development Plan, was on public display from 4<sup>th</sup> June to 30<sup>th</sup> August 2021.

#### 6.3.5. **Bray Municipal District Local Area Plan 2018-2024**

- The southern portion of the application site is located within Bray Town Centre.
- Zoning: Mixed Use 'to provide for mixed use development'. Description: The nature of the mixed use development envisaged for any particular site is set out in the text of the plan.
- 35% of all new housing is targeted to occur on such sites (ie greenfield/brownfield/vacant sites), including 1,000 units on the former Bray golf club.
- The relocation of Bray Golf Club (in the early 2000's) has left a large area of land vacant in the heart of the town.

#### Section 2.2.3 Population and Housing:

Residential Development Strategy for Bray MD: To promote and facilitate the rapid delivery of the maximum number of housing units in the key development areas of Fassaroe and the former Bray golf club.

#### Section 5.3, Bray Town Centre Specific Objectives:

**BT2** To promote and support the development of significant new retail, retail services, commercial and cultural / community floorspace in Bray, at the following locations: - the 'Florentine Centre'(see Objectives for 'Opportunity Site 1' to follow) - Former Bray golf club lands (see Objectives for SLO 3).

#### Section 6.1 Open Space and Play Objectives

**CD3** All new neighbourhood parks or active open space zones shall include a 'mixed use games area' (MUGA) of an appropriate size and nature to be determined in, pre-consultation with the Community, Cultural & Social Development Office of Wicklow County Council.

#### Section 8.1.5, Road Objectives:

**R05** With respect to the major development area at the former Bray Golf Course, excellent linkages shall be provided from the site to surrounding areas; multiple access points for both vehicles and cyclists / pedestrians shall be developed and in particular, the development shall include linkages through the site between the Dublin Road and Bray seafront / the DART station and public walking route along the river.

**RO9** To promote and support the development of enhanced or new greenways at the following locations and require development in the vicinity of same to enhance existing routes and / or provide new links: - Bray - Dargle River south bank...

**R10** To improve existing or provide new foot and cycle links (as funding allows) at the following locations in Bray MD, and ensure developments along these routes are so designed as to allow for / not impede the delivery of required improvements<sup>27</sup>: - Across the River Dargle in Bray town centre via improvements to Bray Bridge or a new pedestrian / cycle only bridge...

#### Section 8.2 Flooding:

**FL2** The zoning of land that has been identified as being at a high or moderate flood risk (flood zone A or B) shall be in accordance with the requirements of the Flood Risk Guidelines and in particular the 'justification test for development plans' (as set out in Section 4.23 and Box 4.1 of the guidelines).

**FL3** Applications for new developments or significant alterations/extension to existing developments in a flood risk area shall comply with the following:

Follow the 'sequential approach' as set out in the Flood Risk Guidelines.

Flood risk assessments will be required with all planning applications proposed in areas identified as having a flood risk, to ensure that the development itself is not at risk of flooding and the development does not increase the flood risk in the relevant catchment (both up and down stream of the application site).

Where a development is proposed in an area identified as being at low or no risk of flooding, where the planning authority is of the opinion that flood risk may arise or new information has come to light that may alter the flood

designation of the land, an appropriate flood risk assessment may be required to be submitted by an applicant for planning permission.

Restrict the types of development permitted in Flood Zone A and Flood Zone B to that are 'appropriate' to each flood zone, as set out in Table 3.2 of the 'Guidelines for Flood Risk Management' (DoEHLG/OPW, 2009).

Developments that are an 'inappropriate' use for a flood zone area, as set out in Table 3.2 of the guidelines, will not be permitted, except where a proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.

Flood Risk Assessments shall be in accordance with the requirements set out in the Guidelines.

Generally a Flood Impact Assessment will be required with all significant developments and a certificate (from a competent person stating that the development will not contribute to flooding within the relevant catchment) will be required with all small developments of areas of 1 hectare or less.

#### Section 9.2 Biodiversity:

**B1** To ensure that the impact of new developments on biodiversity is minimised and to require measures for the protection and enhancement of biodiversity in all proposals for large developments.

#### Section 9.3 Green Infrastructure & Recreational Use of Natural Resources:

**GI5** To promote the development of a series of major open spaces and recreational areas linked by green corridors where feasible (see Map GI1), in the Bray MD area as follows: ... - on the former Bray golf course lands / Ravenswell Road, linked to harbour and north beach to the east and the People's Park to the west...

#### Chapter 10 Key Development Areas:

Specific Local Objectives (SLO): The purpose of the SLO is to guide developers as to the aspirations of the plan regarding the development of certain lands where more than one land use is proposed or the lands are zoned for 'mixed use', in a manner similar to Action Areas, but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application.

**SLO3: Former Bray Golf Course** (of which a portion of the application site relates):

'This MU zoned area measures c. 17ha. It is an objective that this land be developed as a mixed commercial, residential, education / community facilities and open space zone. While only c. 5ha has been developed to date (schools / sports zone) there is an extant permission on the remainder valid until 2020. If this permission is not taken up the plan sets out a number of requirements for the development of the SLO3 lands, which are noted below: -

The lands shall be developed as a extension to the existing town centre and shall involve the creation of a number of new streets and squares, where pedestrians and non-motorised forms of transport have priority, where buildings front directly onto streets and squares with active, attractive ground floor frontage;

The design, finishes etc of all buildings shall draw reference and inspiration from the existing traditional town centre and the development shall flow from 'old' to 'new' without jarring distortions of scale, format or design;

Excellent linkages shall be provided from the site to surrounding areas; multiple access points for both vehicles and cyclists / pedestrians shall be developed and in particular, the development shall include linkages through the site between the Dublin Road and Bray seafront / the DART station and public walking route along the river;

Car parking shall generally to located under or within buildings; not more than 20% of the total overall parking provision required for the entire MU area may be located on open surface locations;

The residential element shall generally be delivered in a high-density format with the target provision of 1,000 units in a variety of unit sizes and formats;

Retail development shall be integrated into the development in a manner that flows from the existing retail core of the town and brings vitality and vibrancy to the streets and squares of the new development. Retail floor space (including retail services such as restaurants, hairdressers etc) of not less than 20,000sqm (of which a minimum of 10,000sqm shall be comparison floorspace) will be required;



Non retail commercial floor space, such as offices, professionals services etc of not less than 5,000sqm shall be integrated into the development at both ground and above retail levels;

The existing schools / sports zone shall be retained; excellent access shall be retained to the schools and associated sports facilities and such access shall avoid the need to bring traffic through new residential areas or town shopping streets;

Not less than 2ha shall be developed as public open space;

Any application shall include a detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to 'kick start' the development, a first phase of housing, being those units that are not integrated into the mixed use retail / commercial element, in conjunction with the public park, may be developed as a 'Phase 1' of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the retail / commercial element.

Map H2 of the LAP sets out protected views and prospects. It is noted that there are no protected views within the site, however, there are 3 no. protected views in close proximity to the site, in this regard 2 no. views south and 1 no. view west from the coast (positioned south of the application site).

**6.3.6. Other Study of Note:**

Bray and Environs Transport Study 2019, by NTA, WCC, DLR, TII

**6.4. Applicant's Statement of Consistency**

- 6.4.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with the national policies and objectives of section 28 guidelines and the Dublin City Development Plan 2016-2022.

**6.5. Applicant's Statement on Material Contravention**

- 6.5.1. The application documentation includes a report titled Material Contravention Statement, which submits that the proposed development may be deemed to

contravene the relevant statutory plans in relation to height, density, unit mix, car parking, dual aspect, and the public open space objective in the Bray MD LAP. The issues raised are summarised as follows:

#### Dún Laoghaire-Rathdown County Development Plan 2016 - 2022

Height: The proposed height of the development when compared to the Building Height Strategy contained in Appendix 9 to the DLRCDP.

Density: The proposed density of the development when compared to Policy RES 3 the DLRCDP.

Unit Mix: Proportion of 1-bed units proposed when compared with Policy 8.2.3.3 of the DLRCDP.

Car Parking: Quantum of car parking and disabled car parking proposed when compared with Policy 8.2.4.5 of the DLRCDP.

Dual Aspect: Proportion of dual aspect apartments proposed when compared with Policy 8.2.3.1 of the DLRCDP.

#### Wicklow County Development Plan 2016 – 2022:

Unit Mix: The provision of bungalows within a development in accordance with HD15 of the WCDP.

Car Parking: Quantum of car parking proposed when compared with Appendix 1 - Section 1 Mixed Use and Housing Developments in Urban Areas of the WCDP and the quantum of disabled car parking proposed when compared with Section 7 of the WCDP.

#### Bray Municipal District Local Area Plan

Public Park: Aspects of the layout when considered in the context of SLO 3 of the Bray LAP.

## **7.0 Observer Submissions**

- 7.1. In total 18 submissions were received, of which 13 submissions were received from observers and 5 from prescribed bodies (see section 9 hereunder in relation to prescribed bodies).

7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

National and Local Policy

- The Board should refuse to consider the application. The Planning Guidelines for Planning Authorities on Urban Development and Building Height 2018 and the Apartment Guidelines 2020, and the SPPRs contained therein are ultra vires and not authorised by section 28(1C) of the Planning and Development Act 2000 (as amended). These provisions are unconstitutional/repugnant to the Constitution. The Guidelines are contrary to the SEA Directive insofar as they purport to authorise contravention of the development plan without an SEA being conducted or a screening for SEA on the variations being brought to the development plan as a result of same.
- The proposal materially contravenes the development plan and local area plan in relation to density requirements/provisions and such material contravention is not justified.
- The proposal materially contravenes the development plan/local area plan in relation to housing mix and floor areas, and such material contravention is not justified.
- The proposal materially contravenes the development plan/local area plan in relation to public open space, and such material contravention is not justified.
- The proposal materially contravenes the development plan/local area plan in relation to building height and visual impact, and such material contravention is not justified.
- The proposal does not comply with the Building Height Guidelines, SPPRs therein and the Criteria and Specific Assessments therein, including SPPRs 1, 2, and 3.
- The proposal materially contravenes the development plan in relation to Car Parking and such material contravention is not justified.
- The submitted Masterplan should have been subject to SEA Screening at a minimum.

- The proposed development is not of strategic or national importance. Purported reliance on the definition in the 2016 Act is erroneous.
- The documentation does not comply with the requirements of the 2016 Act and the Regulations in relation to the requirements for detailed plans and particulars.
- There is insufficient infrastructure capacity including public transport, drainage, water services and flood risk.

#### Density, Design and Layout

- Development layout and design is based on the Part VIII proposed by WCC going ahead. This application is built around the assumption that the Part VIII will go ahead. At the time of writing Wicklow County Council has been requested by An Bord Pleanála to halt work on that proposal while the Board considers the submissions from members of the public requesting a Screening Determination on environmental grounds (Case Ref. HD27.311071).
- The design should be based around the present schools' road which passes underneath the railway underpass to reach the harbour area.
- Connectivity to Corke Abbey/Woodbrook Glen could result in more anti social behaviour with more people using the park.
- Concern in relation to stability of cliffs at back beach and potential risk to train tracks.
- Apartment too high and will be overlooking schools.
- There are not enough connections to and from the sea from what is described as a Coastal Quarter.
- Proposed buildings are dull and unimaginative and inadequate against the backdrop of the existing town and the Wicklow Hill and Bray Head and Sugarloaf.
- A better designed and conceived housing development, with clearer provision for the environment, could be very nice on this location which has been badly neglected.

### Residential Amenity

- The pedestrian/cycle route to the east of the site would be bounded by 8 storey buildings and a 2.4m concrete wall – route would be unsafe due to limited passive surveillance and a ‘tunnelling effect’. Concern the side of the buildings facing this route do not have enough activity.

### Open Space

- 2ha of one large public open space as per SL03 of the Bray LAP is not proposed, but rather a series of smaller parks.
- There is an extant permission on the remainder of the site which does not contain a 2ha park. If this application goes ahead with the extant permission, then the zoning objective will be omitted and would not be consistent with the proper planning and sustainable development of the area.
- Objective GI5 and May GI1 – To promote the development of a series of major open spaces and recreational areas linked by green corridors where feasible in the Bray MD as follows...on the former Bray gold course lands/Ravenswell Road, linked to harbour and north beach to the east and the People’s Park to the west. Clear from LAP that park should be delivered as a first phase.

### Traffic and Transportation

- Impact of the new road and bridge on this development – volume of traffic and associated hazards.
- Data omitted from the Traffic and Transport Assessment and EIAR report – reports state a traffic count was undertaken in 2019 but no month or date is given. As the junctions in question facilitate 6 schools and the date and month are pertinent to traffic calculations, particularly in the AM and PM.
- The discrepancy is noted in the presentation of statistics for 2020. In Engineering, Reports; Traffic and Transport Assessments, Chapter 8.1, the second paragraph states that the survey was carried out in September 2020. However the NDC supporting figures in Appendix B. are dated Oct 22 2020. This means that the Covid consideration is quite likely incorrect as Ireland returned to lockdown in October meaning that the traffic count would be

negligible at this time whereas, in September schools were open and people were travelling, which means greater traffic anticipation. This means if the data is placed in a different month ie. September, the median calculation would be incorrect for the status of lockdown.

- Traffic volumes between the Wilford Junction (Junction 1) Bray O'Toole Bridge (Junction 5) are grossly underestimated by not taking into consideration building developments in the area that have been granted planning permission and are pending planning permission.

#### Ecology/Biodiversity

- Sufficient attention has not been afforded to the preservation environmental biodiversity of the site.
- Loss of habitat and impact on the natural environment.
- A flock of 120 mute swans live in Bray harbour and on the river Dargle so they need to be given special consideration in any development that straddles their habitat.
- Proposed 2.4m high boundary wall to railway is to replace an important and old hedgerow and should be omitted.

#### Archaeology

- Board should consider further if the linear earthwork requires further investigation.

#### Surface Water and Flood Risk

- Due consideration has not been given to preserving a viable floodplain on the lower part of the site.
- Community hired a hydrologist to establish how much of, and which part of, the lowlands of the former Bray Golf Club lands need to be preserved now to retain our necessary flood escape route and storage. It is asked that An Bord Pleanála postpone any decision on SPI's application – and on Wicklow's Part VIII proposal - until this exercise, which has already started, is complete: the observers will be glad to forward his report to you, if you wish, hopefully before the end of October.

- Flood defences can fail, particularly in this era of rapid climate change.
- Phase 1B of the Masterplan shows a Future Landmark Building proposed on the site of the proposed Coastal Gardens. This volume of building would leave very little open space to act as a floodplain in the proposed Coastal Garden.
- Concern that existing flood defence could fail. It cannot be emphasised enough that the importance of the floodplain is relative not only to the planned development on the former golf club lands but to the dwellings and businesses in Little Bray which would all be impacted if the safety valve provided by the floodplain is destroyed.
- No decision on how these lands can be developed should be made until the confusion over which part of the lowlands of the former Bray Golf Club lands is a floodplain is clearly defined by a hydrologist and the zoning issues are clarified by the relevant planning authorities. In addition no decision regarding the environmental impact of the SPI development can be made until a decision is reached on whether Wicklow County Council needs to carry out an Environmental Impact Assessment Report before attempting to proceed with the building of the so-called sustainable transport bridge and access roads.
- Concern in relation to potential flooding of the lands. Preference for high apartment blocks and provision of bigger open spaces than building across the entirety of the lands.

## EIA

Environmental Impact Assessment Screening Report is inadequate and deficient.

Public consultation requirements not met.

The Board lacks ecological and scientific expertise.

Incomplete assessment of potential pollution and nuisances arising.

Insufficient information to assess risk of human health (such as noise/dust/vibrations etc and mitigation relevant to same).

Criteria considered does not comply with requirements of the 2000 Act, 2016 Act, or associated Regulations, or the EIA Directive.

Having regard to the potential for cumulative impacts with this development and other SHD developments, and noting the size of the proposed development, the EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.

The Population and Human Health Chapter of the EIAR is inadequate in that it fails to assess the impact of an increased population in the area on services including schools, childcare and medical care.

The impact on biodiversity and human health during construction and operational phases is inadequate and lacking in terms of detail. The EIAR is insufficient in this regard.

Inadequate consideration has been given to Climate Change in the EIAR.

## AA

One observer submission considers the information is insufficient, contains lacunae, and is not based on appropriate scientific expertise, with following concerns highlighted:

There are inadequacies and lacunae in the AA Screening Report and NIS and the Board does not have sufficient or adequate information to complete an AA.

The AA Screening assessment does not provide sufficient reasons or findings.

The Screening Assessment is flawed as it rules out certain protected sites on the basis of mitigation measures.

NIS is flawed as it does not consider all aspects of the development such as construction compounds and haul roads.

The NIS seeks to rely on an assessment of collision/flight risks in the EIAR.

Insufficient surveys have been carried out to assess potential impacts arising from bird collision/flight risks insofar as proposed development may impact bird flight paths.

The Zone of Influence in the NIS is not reasoned or explained.



NIS fails to identify and consider all potential impacts on protected bird species, including potential collision flight risk during construction and operation.

No regard/inadequate regard to the cumulative effects of the proposed development in combination with other development in the vicinity on the protected sites.

Insufficient site visits carried out and absence of detail as to the methodology utilised for the site visits.

The main channel of the River Dargle is designated as a salmonid water and badger activity has been recorded on the site.

Reliance on NIS submitted for Shanganagh WwTP is impermissible and contrary to the Habitats Directive.

#### Other Matters

Concern that apartment blocks are for build to rent.

Concern in relation to distribution of Part V which is proposed all in one block.

## **8.0 Planning Authority Submission**

### **8.1. Overview**

- 8.1.1 The application site falls within the administrative areas of Dun Laoghaire Rathdown County Council and Wicklow County Council. In compliance with section 8(5)(a) of the 2016 Act, DLR County Council submitted a report of its Chief Executive Officer in relation to the proposal, which was received by An Bord Pleanála on 14<sup>th</sup> October 2021 and Wicklow County Council submitted a report of its Chief Executive Officer in relation to the proposal, which was received by An Bord Pleanála on 13<sup>th</sup> October 2021. The submissions include technical reports from relevant departments of the County Councils.
- 8.1.1. The Chief Executive's Report of DLRCC concludes that it is recommended that permission be REFUSED.
- 8.1.2. The Chief Executive's Report of Wicklow County Council concludes that it is recommended that permission be GRANTED.

## 8.2. Dun Laoghaire Rathdown County Council Chief Executive's Report

### 8.2.1. Summary of Inter-Departmental Reports

Drainage: Conditions recommended in relation to green roofs; construction management plan; details in relation to attenuation; stormwater audit; demonstrate that boundary treatment along northern boundary will not alter predicted flood extents or potential conveyance routes.

Transportation: Conditions recommended in relation to requirement for 1 parking space per apartment/duplex; car sharing spaces should be increased across the site; alternative layout and design for cycle parking; concerns with regard to the provision of emergency access to the development and consider that a second access to the Dublin Road should be provided for use by emergency vehicles at all times; delivery of links in Corke Valley Park should be delivered by the applicant; implementation of concerns in quality audit; tie-in with existing DART underbridge should be clarified.

Lighting: Acceptable.

Housing: Condition recommended.

Environment: Condition recommended.

### 8.2.2. Summary of View of Elected Members

- Regarding the construction phase, seek that a permeability link to the park next to Corke Abbey and Woodbrook Glen areas is maintained during the construction phase. Seek that the construction management plan addresses this.
- Seek that the hedgerow to the north of the site is maintained and hope that the linear park is enhanced.
- It is noted that there is a need for housing.
- Welcomes that this development is a non-Build to rent development.
- Additional height at the Wicklow end of the overall site, closer to the town of Bray, would have been welcomed.
- Seek the preservation of ancient hedgerows, and the area around ancient hedgerows.

- Comments are made while noting also the negative views of the SHD process.
- Concerns regarding Part V units being provided at one location. The proposal does not achieve the ambition of social inclusion regarding Part V units.
- Seek that the location of Part V units are revised so that they are more evenly distributed throughout the development.
- The distribution of open space is skewed, as it is located further away from the Part V units.
- The number of bedrooms in the scheme is welcomed.
- There is a shortage of 1 bedroom units in the county.
- In general, this is a proposal which has many positive elements.

#### 8.2.3. Planning Analysis

The submitted CE Report sets out a detailed planning analysis of the proposed development. I note the report throughout compares this scheme to that previously refused on this site. The following is a summary of the main points within the CE Report:

CE Comment, Principle of development: Acceptable.

CE Comment Density: Acceptable.

CE Comment Residential Accommodation and Mix: Unit mix is generally in accordance with provisions of Policy RES7 and Section 8.2.3.3(iii) of the DLR CDP. Proposed mix of apartment units would accord with SPPRs of Apartment Guidelines.

CE Comment, Residential Unit Standards: Proposal in accordance with Apartment guidelines. However, the proposal of 51% dual aspect units would not accord with minimum 70% dual aspect ratio south under Section 8.2.3.3(ii) of the DLRCDP.

CE Comment, Building Height:

The height and massing of proposed Block A in conjunction with Block B within the overall development site at this visually prominent location within the existing coastal environment is a matter of concern.

Block D – concern with regard to the height and position of Block D relative to existing two storey Corke Abbey to the immediate northeast, notwithstanding setback at 4<sup>th</sup> floor and existing planting to be retained.

The proposed apartment block elements by reason of their height, scale and design would not integrate satisfactorily with the existing area and would unduly impact on the character and visual amenity of the receiving environment and existing established pattern of development in the immediate vicinity.

Concern in relation to layout and design with regard to creation of a sense of place with distance character and detailed design. Opportunity to integrate county boundary could have been an opportunity for the integration of cultural heritage and distinctiveness in the subject scheme. Absence of a clearly defined proposal is a significant omission. Proposal would not accord with Policy UD1.

At the scale of district/neighbourhood/street the proposed development does not respond to its overall natural and built environment nor make a positive contribution to the neighbourhood and streetscape - height and massing of Block A relative to coastline; and design and proximity to boundaries of Block D which would adversely impact on existing residential amenity.

Block A: by virtue of its monolithic form and massing relative to the receiving environment, would be visually dominance at this location and when viewed in conjunction with Block B in the context of this coastal environment, would be over scale and of insufficient design to alleviate the impact of same.

While the apartment blocks include a degree of articulation with respect to height and footprint, Block A would present a continuous façade in excess of 40m, with concern in relation to monolithic form and massing of this block. Of note is the uniform layout/pattern of balcony elements and fenestration on the elevation of this block. Concern in relation to cumulative visual impact with Block B which is of similar design. Predominance of render – mix of materials does not successfully break up the overall massing and form of the apartment blocks. Views VM6 and VM8 of note.

Massing of proposed 2—3 storey dwellings units acceptable.

Proximity of Block D to existing trees and affect of same on internal sunlight.

There is a distance of 16m between opposing balcony elements serving Block A and B. This would not accord with provision of S.8.2.3.3(iv) which seeks to provide a minimum of 22m between opposing windows in the case of apartments up to three storeys in height.

Having regard to visually prominent and relatively exposed location of the site, durability of external materials and maintenance implications of same are of key importance. Concerns in relation to extensive use of render in terms of visual diversity as well as how they may weather over time. Alternate external finishes are recommended.

CE Comment, Sunlight and Daylight Access:

Representation of the existing environment is not included, which is noted with regard to Block D and adjacent Corke Abbey properties to the northwest.

CE Comment, Open Space and Public Realm: Acceptable in terms of open space and communal amenity standards.

CE Comment, Impact on Adjoining Amenities: Overlooking and visual impact of Block D having regard to 10m distance to side boundary of no.112, side fenestration pattern and upper floor terraces.

CE Comment, Childcare Facilities: The calculation of childcare spaces should not omit 50% of the proposed two bed units.

CE Comment, Boundary Treatment: Query proposed 2.4m high wall along the eastern boundary given the interface with the nearby coastline and potential for a more visually pleasing permeable alternative to this treatment. Condition requested.

CE Comment, Drainage: Conditions recommended. SFRA, in so far as it relates to lands in DLR, is acceptable.

CE Comment, Transportation Parking and Access: Conditions recommended.

CE Comment, Public Lighting: Condition recommended.

CE Comment, Refuse Management Scheme Management and Construction Details: Conditions recommended.

CE Comment, Part V: Review of Part V required.

### **8.3. Wicklow County Council Chief Executive's Report**

#### 8.3.1. Summary of Inter-Departmental Reports

WCC Engineers Report: Conditions recommended in relation to maintenance of access under the DART underpass during construction; compliance with national cycle manual; road connection details; RSA; lighting; road drainage.

Housing: comments in relation to detailed designed, location, costs.

Bray Engineers Planning Report: condition in relation to surface water flows and DART underpass; linkages to rail underpass from the north is not clear; this link should be shown to be fully accessible; frontage of Block C impedes direct route from schools to the underpass, pavement should be amended to match this desire line; development will increase traffic on Dublin Road, therefore as mitigation land required for the upgrade of the Dublin Road within the applicant's ownership should be utilised to provide for an extended bus lane; under ref 15190 a new access was to be constructed at the existing Dublin Road – Castle Street – Upper Dargle Road junction was to be constructed. The Ravenswell Road needs to be closed and this road constructed prior to commencement of this development to militate against further traffic interruptions and safety issues on Castle Street.

#### 8.3.2. Summary of View of Elected Members

Traffic: Scale of development and increase in traffic; insufficient parking particularly at school times; query validity of traffic studies.

Public Transport: Concerned that success of this development relies on Bray Public Transport bridge; development should not presume Luas.

Services/Infrastructure: schools at capacity; additional families will put pressure on roads, schools, infrastructure etc.; land should be reserved in case school needs to expand.

Scale of development/Sustainability: Prefer to see full development of site presented; concerns about 2ha public space, seems to be piecemeal about the development; should comply with LA interpretation; consideration should be given to using land for school.

Miscellaneous: Flood risk has not been fully considered and status of flood plain is unclear; proposal materially contravenes LAP and zoning; fire safety concerns; lack of passive surveillance along east of site; prefer part V social housing to be spread

out; no gated complexes should be allowed; skate park or dog park should be considered for public park as this is an Objective of Bray MD; concern regarding landmark building in second phase; ambiguity around public park vs public open space; linear park is preferable; SHD process not appropriate; Dept of Ed responsible for school provision; welcome housing development to meet housing need; wheelchair accessibility for ground floor units important; poor delivery record of the applicant; would welcome option to provide affordable housing.

### 8.3.3. Planning Analysis

CE Comment, Core Strategy and Settlement Strategy: Number of units proposed acceptable.

CE Comment, Zoning: Acceptable.

CE Comment, Specific Objectives of SLO3: layout acceptable; finishes acceptable; connections north into Corke Abbey should be agreed by condition; high density and variety of unit sizes and format acceptable; retail and commercial element of development relates to phase 2; 2ha of public open space should be provided for upfront, with masterplan showing proposal for riverside lands which is within the applicants ownership, it is considered that the development should not be occupied until a 2ha park is provided; public, private, and communal open space proposed is in accordance with the relevant standards.

CE Comment, Density: Acceptable.

CE Comment, Phasing: Not acceptable. Block C, Markey Square, and southern public parkland should be provided within the first phase of development.

CE Comment, Mix: Objective HD15 requires bungalows. However, given the location of the development and the number of apartments, bungalows in this instance would not be required.

CE Comment, Apartments: Location and overall design of apartment is generally acceptable.

CE Comment, General Design/Layout: No significant objective. Apartment blocks should have brick finish in interests of visual amenity and durability.

CE Comment, Access and Connectivity: Development would not result in significant adverse impacts on the surrounding road network, however conditions should be

attached to facilitate the delivery of road infrastructure to serve the development lands. Condition requested that the development should be contingent on the delivery of lands within the control of the applicant for Dublin Road Upgrades; the junction at the Ravenswell Road was never envisaged to serve major development and should be closed.

CE Comment, Car Parking and Cycle Facilities: The CE has no significant objection to The Orchard Car Park; stage 3 road safety audit required; car parking and cycle proposals are generally satisfactory.

CE Comment, Open Space: Open space and landscaping proposals acceptable.

CE Comment, Childcare Facilities: Childcare facility acceptable. It should be provided within phase 1 of development.

CE Comment, Archaeology: Acceptable.

CE Comment, Flooding: The development is in accordance with the Planning System and Flood Risk Management Guidelines.

CE Comment, Part V: Part V in one block is not acceptable.

CE Comment, Services: Final details to be agreed in relation to surface water.

#### **8.4. Statement in accordance with 8 (3) (B) (II)**

8.4.1. Wicklow Council Chief Executive's Report recommends a Grant of permission, subject to a number of conditions.

8.4.2. Dun Laoghaire Rathdown Council Chief Executive's Report recommends a Refusal of permission based on the following reason:

1. The proposed development, by reason of the monolithic form, overall design, scale, massing, height of the apartment block elements of the scheme, would be visually incongruous within the receiving environment thereby detracting from the visual amenities of the area, and fails to provide for a scheme of high quality design that assists in promoting a 'sense of place', through layout and detailed design. In addition, the proposed development location on lands predominantly subject to the 'A' land use zoning objective 'to protect and/or improve residential amenity' in the Dún Laoghaire Rathdown County Development Plan 2016-2022, would be reason of its layout and height,



adversely impact on the amenities of existing adjacent properties. The proposed development is considered to be contrary to Policy UD1 and Appendix 9 (Building Heights Strategy) of the Dún Laoghaire Rathdown County Development Plan 2016-2022 and the Urban Development and Building Heights Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## 9.0 Prescribed Bodies

The applicant notified the following prescribed bodies prior to making the application:

- Department of Education and Skills
- Irish Water
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- The Heritage Council
- An Taisce
- The Commission for Railway Regulation
- Iarnród Éireann
- Transport Infrastructure Ireland
- Wicklow County Childcare Committee
- Dun Laoghaire Rathdown Childcare Committee
- Five of the bodies have responded and the following is a summary of the points raised.

### 9.1. Irish Water:

Wastewater - The connection is feasible subject to the completion of the Old Connaught Local Network Reinforcement Project (LNRP) which is on Irish Waters current Capital Investment Plan. The estimated time of completion for this project is Q2 2023 (subject to change).

Water - Significant upgrades are required, these include but are not limited to the replacement of approx. 450m of existing 6inch watermain to 200mm ID main. In addition to this approx. 190m of new 200mm ID main is required to connect the existing network to the development. The applicant will be required to fund these network upgrades as part of a connection agreement.

## 9.2. Department of Housing, Local Government and Heritage –

### Archaeology

The National Monuments Service concurs with the findings of the archaeological assessment and the suggested archaeological mitigation measures outlined in the report.

Conditions recommended, including the following:

The linear earthwork (identified as Recorded Monument WI004-005 linear earthwork and DU026-124 linear earthwork), referred to locally as the ‘Nun’s Walk’, shall be incorporated in some regard into the design of the proposed development. Details of any interpretation and/or presentation of this historic feature within the development to be provided and agreed in advance with the Planning Authority in consultation with the National Monuments Service in advance of any site development works.

### Nature Conservation

The clearance of the great majority of the existing vegetation from the development site will lead to the loss of nesting sites for all the bird species breeding in this area, but as all the species occurring here are relatively common species, such losses of nesting habitat can only be considered of minor significance from a nature conservation perspective. In the longer term the planned landscape planting of trees and shrubs across the development site should in any case mitigate the impact of this habitat loss by providing substitute nesting sites suitable for most of the bird species currently using the proposed development site. The inclusion of furze within the landscape planting of the ‘Coastal Gardens’ could also provide suitable habitat to maintain the presence of stonechat in this section of the development site into the future. On the other hand, clearance of vegetation from the development site during

the bird breeding season could lead to the direct destruction of eggs and nestlings and should be avoided.

The vegetation development impact drawing does not cover the wider master plan area and from the other documentation supporting this application it is not possible to certainly identify the trees concerned, but from information in the bat survey report, and because they seem to be the only adjoining oaks present in survey area, it appears that these two oaks are located in or at the edge of the second construction compound 200 m west of the main site near the ruined golf club house. It is not clear whether the establishment of this second compound as proposed by the present application will require the removal of these oaks, but as confirmed bat roosts their clearance can only occur if the developer obtains a licence from the NPWS to derogate from the Habitats Directive (92/43/EEC) to destroy the roosts, as all bat species are afforded a regime of strict protection under this directive which includes the prohibition of any interference with or destruction of their breeding or resting places except under licence.

Measures proposed to mitigate the impacts of the proposed development on bats include pre-felling surveys of trees with potential to be used as bat roosts, the erection of bat boxes on trees and free standing, the insertion of bat tubes in a wall to be built to screen a foul sewage pumping station on the site, and the installation of bat friendly external lighting in the scheme. This Department accepts these measures if implemented should mitigate the effects of the development on bats to some extent.

On the evidence of the time of day and location in which the adult and juvenile badgers were encountered in August 2020 the Department considers it likely that there is a main badger sett located somewhere near the western end of the master plan area, possibly close to or in the grounds of the old Ravenswell national school, and that the badgers associated with this sett are a separate group from the badgers associated with the Woodbrook Golf Course sett. Nevertheless it would be desirable to maintain some connectivity between the territories of the two social groups, which is liable to be cut off by the proposed development. The maintenance of such connectivity could possibly be assisted by providing as much vegetation cover as is feasible in the landscaped 'Coastal Gardens' strip which is to be laid out along the eastern railway boundary of the development site. Cover for the movement of

badgers and other mammals along this strip could potentially be promoted by replacing some of the wildflower planting planned for this strip with shrubs. As proposed the wildflower planting would seem to be of limited biodiversity value, as the seed mix it is intended to use includes corn field weeds and woodland species such as red campion which are unlikely to persist in this location.

To maintain usage by otters of the Woodbrook Glen Park area adjacent to the northern boundary of the development site, and the culvert from it to the sea, it would be desirable to minimise as far as possible any impacts on the park and culvert area which may arise from the proposed development site including any nocturnal light spillage. To reduce such light spillage the screening effect of the treeline on the development site's northern boundary should therefore be maintained or preferably reinforced. More trees could be planted to thicken up the treeline than is currently proposed, and possibly some of the Leyland cypresses which it is intended to remove from this treeline for arboricultural reasons could be retained at least until some of the newly planted trees have time to mature.

Appropriate Assessment (AA) of the potential impact of the proposed development in European sites identified the possibility of ex-situ effects on a Qualifying Interest (QI) harbour porpoise for the Rockabill to Dalkey Island Special Area of Conservation (SAC) which at its closest is 6.5 km from the development site. It is considered that there is a limited possibility of pollution originating from the development site during the construction phase of the proposed development due to the mobilisation of silts or accidental discharge of fuel, other oils or cementitious materials and these pollutants then being transported by water run-off into the River Dargle and the waters outside Bray Harbour. Effects on water quality in coastal waters outside the harbour could impact on harbour porpoises which have often been reported from the waters off the harbour and are also likely to frequent the Rockabill to Dalkey Island SAC. The Natura Impact statement (NIS) and Outline Construction Environmental Management Plan (CEMP) supporting this application set out various mitigation measures which will be employed during the construction of the proposed development to avoid pollutants being transported off the development site into the Dargle, including the protection of the existing site drainage network by physical barriers, the storage of oils and refuelling of machinery in bunded areas and the careful planning and supervision of the transport and laying of cement and concrete.

The NIS concludes that with the implementation of such mitigation measures the proposed development will not have an adverse effect on the integrity of the Rockabill to Dalkey SAC or any other European site. This Department agrees with this conclusion. The employment of the mitigation proposed to avoid water pollution should also protect trout, salmon and other fish stocks in the River Dargle, and birds such as mute swans occurring on the river and in Bray Harbour

Conditions are recommended, including the following:

- That prior to the commencement of works on the proposed development site the applicant shall submit for the written agreement of the planning authorities modified proposals for the landscaping of the proposed development, these proposals to incorporate increased planting of trees, preferably semi-mature, to thicken up and improve the screening capacity of the tree line on the northern boundary of the development site to minimise light spillage from the proposed development impacting on otters utilising the adjacent section of Woodbrook Glen Park, and increased planting of shrub species and especially furze in the 'Coastal Gardens' adjacent to the railway to provide cover for the movement of mammals including badgers through this area and habitat suitable for the stonechat, a bird species a bird species currently inhabiting this section of the development site.
- That prior to the commencement of works on the proposed development site the applicant shall submit to the planning authorities for their written agreement a bat conservation plan, this plan to clarify the proposed treatment of the bat roosts identified in two oak trees in or adjacent to the construction compound to be established near the old Bray Golf Club clubhouse, set out a schedule for the inspection and felling of potential bat roost trees on the development site, and provide details of the locations and designs of bat boxes and bat tubes to be installed in the proposed development.
- That the lighting scheme for the proposed development shall be designed in accordance with guidance contained in Institution of Lighting Professionals (ILP). (2018). Guidance Note 08/18: Bats and artificial lighting in the UK, and signed off on by a bat specialist before submission to the planning authority for its written agreement before the commencement of any works on site.

- A finalised Construction Environment Management Plan shall be prepared and submitted to the planning authority for its written agreement, this CEMP to incorporate the measures set out in the NIS and Outline CEMP and Construction Management Plan supporting this application to avoid any pollution through surface water runoff or accidental discharges during the construction of the proposed development reaching the River Dargle and the coastal waters in the vicinity of Bray Harbour, and these measures to be implemented in full.

9.3. Irish Rail – the submission received is summarised as follows:

The proposed development lies directly adjacent the Dublin - Wexford Railway line on the north side of the river Dargle. The site boundary shown on the plan drawings and cross sections assumes that the property boundary to railway lands corresponds with the fenceline. This approach is unreliable and does not take account of historical drainage channels which were constructed parallel to the railway at the crest of cuttings and the toe of embankments which fall within the original land take for the railway corridor. The Applicant should engage with Iarnród Éireann and provide detailed cross sections with a view to agreeing the line of the proposed boundary treatment.

Iarnród Éireann has commenced design on the DART+ Coastal South Project, as part of the DART+ Programme, with the principal objective of increasing capacity on the Rosslare Line from the City Centre to Bray/Greystones. The DART+ Coastal South Project will seek to increase capacity from the current peak of 8 train per hour per direction to 12 trains per hour per direction to Bray. The project is also assessing the potential for increasing capacity from Bray to Greystones from the current peak of 2 trains per hour per direction to 3 or 4 trains per hour per direction. In order to achieve this increased capacity, Iarnród Éireann will need to remove some of the constraints that limit train capacity. To this end, the project is assessing the permanent removal of Quinsborough Road level crossing (i.e. level crossing immediately north of Bray train station). The project will assess the traffic implications (to include pedestrians, cyclist and vehicles) on the receiving road network to maintain an appropriate level of connectivity with Bray sea front. As necessary, and in consultation with Wicklow County Council and the National Transport Authority, the project may propose improvements to the road network to

maintain traffic flows. The optioneering for road improvement is at early stage of consideration and no emerging preferred option has yet been determined. DART+ Coastal South will consider the underpass licence agreement between Iarnród Éireann and Wicklow County Council, to the east of the Coastal Quarter SHD, during the optioneering process.

The railway underpass on the south east side of the development (referred to as UBR138) was provided under the Dublin and Bray Act 1851 specifically to provide an accommodation for “Her Majesty’s Ordnance” to access the Martello Tower No. 2 which then existed on the seaward side of the railway. No right of way exists through the underpass. Wicklow Co Co recently entered into a licence with CIÉ and Iarnród Éireann to permit public access for pedestrians and cycles under the bridge. As with any licence this licence has restrictions and is terminable. The applicant does not have any such licence to permit its agents or clients to use the underpass and should assume that access through the underpass is temporary with regard to this and future planning applications. Furthermore the applicant should note that this underpass is not suitable for vehicular use. The use of the underpass by vehicles would pose a very significant threat to the safety of the railway should a vehicle hit the deck of the bridge. The applicant or its agents must not use and must not facilitate the use of this underpass by vehicles. The applicant should be required to place bollards or other suitable obstructions on the approach from its development in order to ensure that unauthorised vehicles cannot use the underpass.

Any rendering to the proposed concrete block wall along the boundary should be on the applicant’s side of the boundary only.

The railway operates 24 hours a day with maintenance activity taking place at night and during shut downs of passenger services. The development is in close proximity to the live railway and therefore must take account of the potential noise and vibration impact that an operational railway may have on sensitive receptors. Residential units should be designed, orientated and located to limit the impacts of noise and vibration from transportation traffic and maintenance activities. It is recommended that the Applicant incorporates best practice principles in the design using BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings. The Applicant must refer to the local authority’s Noise Action Plan regarding

development adjacent railways and where appropriate carry out a noise risk assessment to inform an Acoustic Design Statement (ADS).

#### 9.4. National Transport Authority

The proposed development site is located within walking distance of the town centre, public transport services operating along Dublin Road and Castle Street, and the DART Station. Access to the town centre and DART Station would also be further improved with the delivery of the proposed Bray Sustainable Transport Bridge, currently at planning approval stage (Wicklow County Council Part VIII Ref. PRR 21/869). The principle of development on the proposed site is therefore considered acceptable.

Permeability - The NTA recommends that, in the event of a grant of permission, the applicant should demonstrate how the proposed development will be linked to the pedestrian facilities to the north of the proposed development linking to Corke Abbey, in advance of construction commencing.

Parking - The NTA recommends that the car parking proposed in the south-west of the development is removed as it has the potential to facilitate unsustainable travel patterns to the adjacent schools.

Road Layout - The proposed layout has a primary north-south road between Apartment Blocks A and B and the houses. The NTA notes that this road incorporates a significant change of alignment as it meets Apartment Block A. Whilst this may assist in calming car traffic, it is not an optimal arrangement for cyclists.

#### 9.5. Transport Infrastructure Ireland

The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted. Any recommendations arising should be incorporated as Conditions in the Permission, if granted. The developer should be advised that any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.

## 10.0 **Assessment**

### 10.1. **Introduction**



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

Principle of Development

Density

Development Layout

Public Realm

Height, Scale, Mass, and Design

Open Space

Biodiversity/Ecology and Landscaping

Quality and Residential Amenity of Proposed Development

Residential Amenity of Neighbouring Properties

Traffic, Transportation and Access

Water Services, including Flood Risk Assessment

Archaeology and Cultural Heritage

Material Contravention

Other Matters

These matters are considered separately hereunder.

10.1.2. I have carried out an Environmental Impact Assessment and Appropriate Assessment in respect of the proposed development, as detailed later in this report. Each section of the report is structured to guide the Board to the relevant section of the EIAR, AA, relevant policy, substantive issues raised in the submissions / observations and the applicant's response as appropriate.

10.1.3. A Material Contravention Statement has been submitted with the application. It deals with the matters of (i) height (ii) density (iii) unit mix (iv) car parking and (v) dual aspect in the Dun Laoghaire Rathdown County Development Plan 2016-2022; with the matters of (i) units mix and (ii) car parking in the Wicklow County Development

Plan 2016-2022; and with the matter of (i) public park in the Bray Municipal District Local Area Plan 2018-2024. I shall deal with each of the matters individually below.

## **10.2. Principle of Development**

- 10.2.1. The proposed development comprises 591 no. residential units (in a mix of apartments, duplexes and houses) and ca.1,336 sq.m of other uses comprising of a retail unit, 2 no. commercial units, a childcare facility and a café, and associated car and bicycle parking spaces at surface and undercroft levels. The proposed development is situated on a net site area of 7.2ha, to the north of Bray Town Centre. The proposed maximum height of the apartment blocks will be ca. 8no. storeys and ca. 36mAOD (at Apartment Block A).
- 10.2.2. The site is in the administrative areas of Dún Laoghaire-Rathdown and Wicklow County Councils. The local planning policy framework for the site is therefore the Dún Laoghaire-Rathdown County Development Plan 2016 - 2022, the Wicklow County Development Plan 2016 – 2022, and the Bray Municipal District Local Area Plan 2018 – 2024.
- 10.2.3. The northern portion of the site is zoned A (residential) and F (open space) in the Dún Laoghaire-Rathdown County Development Plan (DLRCDP) 2016-2022.
- 10.2.4. The southern portion of the site is zoned MU (mixed use) in the Wicklow County Development Plan (WCDP) 2016-2022 and is governed by the Bray Municipal District Local Area Plan (LAP) 2018-2024. Specific Objective SLO3 of the Bray MD LAP relates to the site, and to the adjoining lands to the west and south. It is an objective that this land be developed as a mixed commercial, residential, education / community facilities and open space zone and a number of requirements are listed in relation to the lands, with these requirements 'subject to a current permission on the lands (which has the potential to be extended to 2025) not being taken up'. I note that a permission on lands adjoining the southern boundary of the application site and overlapping a portion of the application site has been extended to 2025. The permission differs in what is permitted and what is proposed on the overlapping portion of the site. Given the two developments cannot be implemented should this permission be granted, the requirements under SLO3 are applicable to this application.

10.2.5. I note that a Harbour Point Masterplan document relating to the MU zoned landbank, (which includes lands to the south of the application site) has been submitted with the planning application and it is stated within that document that it is not a statutory plan, has not been endorsed by any planning authority and it is not intended to be rigidly adhered to, but acts a guide setting out key design principles and phasing for the MU zoned/SLO3 lands. While I have reviewed the masterplan, it is, as stated, not a statutory document and my assessment relates only to the development on the application site as proposed. I note a dotted line is included in the masterplan and some of the drawings around a portion of the proposed open space to the southeast of the site layout and this is identified as a 'future development block' with temporary landscaping proposed as part of this application – I am assessing this application on the basis of what is proposed on the site layout plan within the red line boundary of the site, which is the provision of open space on the entirety of this section. I note it is not stated in the description of development that any of the uses proposed are temporary in nature. Any future intention for a block on this proposed open space would have to be assessed on its merits as part of a separate application.

10.2.6. I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The site is zoned A and MU, within which residential use, childcare, café, convenience shop and commercial uses are permissible uses within the relevant development plans, with open space only and associated paths proposed within the F zone, as allowed for under DLRCDP.

10.2.7. A number of requirements and objectives relate to the plan lands and the development is generally in accordance with the development plan and LAP objectives. The principle of residential and commercial development is therefore acceptable on these lands, subject to detailed planning considerations, as set out hereunder.

### 10.3. **Density**

10.3.1. The proposed development comprises 591 units on a net site area of 7.21 ha (excluding OS zoned land and area of construction compounds/routes of pipelines outside the development footprint) with a resulting net density of 82 units per

hectare. The density within the DLR administrative area is stated to be 76 units per hectare and within the WCC administrative area is 75 units per hectare. The submitted CE Reports from DLRCC and WCC consider the density appropriate for the site.

- 10.3.2. In terms of the national policy context, the National Planning Framework (NPF) 2018 promotes the principle of ‘compact growth’ at appropriate locations and requires at least half of new homes within Ireland’s cities to be provided within the existing urban envelope, focussing on a more compact urban form, facilitated through well designed higher density development. Of relevance is objective 35 of the NPF which prioritises the provision of new homes at increased densities in settlements where appropriate; NPO 13 which stipulates that ‘in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth’; NPO 33 which prioritises the provision of residential development at appropriate scales within sustainable locations; and NPO 35 which notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights. The RSES for the region further supports consolidated growth and higher densities, as per Regional Policy Objective (RPO) 5.4 which states that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards. The RSES seeks to realise compact growth targets in Key Towns with at least 30% of all new homes to be within the existing built up settlements, with a focus on healthy placemaking and improved quality of life. In relation to Section 28 guidance, the Sustainable Residential Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, all provide further guidance in relation to appropriate densities and support increases in densities at appropriate locations in order to ensure the efficient use of zoned and serviced land.
- 10.3.3. The DLR County Development Plan 2016-2022 under RES3 promotes higher densities in appropriate locations, including within the catchment of high-capacity public transport, and ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide

for sustainable residential development. The Development Plan supports 'Consolidation through sustainable higher densities allows for a more compact urban form that more readily supports an integrated public transport system'. Under S.2.1.3.3, 'Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged' and as a general rule the minimum default density for new residential developments shall be 35 units per hectare. The development plan further states under S.8.2.3.3 5 'the objective is to optimise the density of development in response to type of site, location and accessibility to public transport. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied'.

10.3.4. The Wicklow County Development Plan 2016-2022 states in relation to density under Objective HD5 that 'In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands'.

10.3.5. Table 3.1 of the Bray MD LAP 2018-2024 identifies a potential for 1000 no. units on the Former Bray Golf Club Lands. The application site forms of portion of those lands. The lands to the west of the site have been developed for schools and new roads have been put in place to access the lands. The River Dargle to the south has had flood relief works undertaken along it and a new promenade is in place along the river connecting to the application site. The remainder of the Bray Golf Club Lands are undeveloped. Objective R2 of the Bray MD LAP states 'In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle...'. It is an objective of Bray Municipal District Local Area Plan 2018-2024 'To promote and facilitate the rapid delivery of the maximum number of housing units in the key development areas of Fassaroe and the former Bray golf club'.

- 10.3.6. The subject site is located approx. 800m from the Bray Daly DART station, with access to mainline rail services to Rosslare and DART services to Dublin. The site adjoins two large schools, is within walking distance of Bray town centre and its associated range of commercial, social, amenity services, and employment, as well as additional local neighbourhood shopping facilities to the west. The site is highly connected in terms of walking/cycling facilities, with recent investment evident in cycle/pedestrian routes around the town and in the delivery of a quality public realm. The site adjoins pedestrian/cyclist only connections to the east to the town centre and Bray promenade via the DART underpass and to the south via the riverside walk, with the link street serving the site comprising footpaths and cyclepaths, which connect into the wider network.
- 10.3.7. The site in my opinion can be categorised as a 'Central and/or Accessible Urban Location' as per the Apartment Guidelines. These include areas within walking distance of employment locations and/or walking distance (up to 10mins) of high-capacity public transport such as DART services and 5 mins of high frequency urban bus services. These locations are stated to be generally suitable for small to large scale and higher density development, that may wholly comprise apartments. As per the Sustainable Residential Density Guidelines, the site can be described as a town centre location and within a public transport corridor, where minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied and minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.
- 10.3.8. I note that the matter of density has been addressed in the submitted Material Contravention Statement in relation to DLRCDP where it is stated that the lack of clarity with regard to the extent to which the density level of 50 dwellings per hectare may be exceeded before being considered as materially contravening the objectives means that it is not possible to definitively adjudge if the proposed density materially contravenes the development plan. I do not consider that the proposal represents a material contravention in relation to density and I consider the objectives of the plan are clearly stated in this regard. I address this further in Section 10.14 hereunder. I consider that the delivery of residential development on this prime, underutilised, serviced site within the urban centre of Bray, in a compact form of higher density (82

units per hectare), would be consistent with the policies and intended outcomes of current Government policy, specifically the NPF, the RSES, the Sustainable Residential Development Guidelines and the Apartment Guidelines, as well as local policies, which all look to secure more compact and sustainable urban development supported by public transport. The proposed residential density of 82 units/ha is acceptable in principle at this location, subject to a qualitative assessment in terms of design and amenity standards, which is discussed in detail in other sections of this report.

#### **10.4. Development Layout**

- 10.4.1. The layout of the scheme has been informed by the existing site context, the predominant factors being the Dublin-Bray DART line/Rosslare line; proximity to the coast; proximity and availability of direct pedestrian/cycle connections to Bray town centre and north beach via the DART underpass and via the River Dargle; existing flood risk zones; Croke Abbey Valley Park to the north; Corke Abbey housing to the northwest; and school site to the west. The topography of the site generally slopes moderately from north to south with a steeper gradient on the south side of the existing east-west link street at the southern portion of the site.
- 10.4.2. It is proposed to build two larger apartment blocks (A and B), 4-8 storeys, along the eastern side of the site facing the railway and the sea, with Block C (3-6 storeys) to the southeast and the lower Block D (4 storeys) to the northwest. The remainder of the site comprises two-three storey houses and duplexes. All the apartment blocks, duplexes and houses across the scheme are to be finished in render, with the exception of the lower floor (two floors depending on topography) of the proposed apartment blocks, which are to be finished in granite stone, with projecting railed balconies proposed as private amenity space to all the apartments. Given the size of the site, I consider in general terms that it has the capacity to absorb a development of higher density and high buildings and can determine its own character, without detriment to the amenities of the area, subject to further detailed assessment as set out hereunder in this report.
- 10.4.3. With regard to the street network, a relatively new link street network has been constructed in this area to serve the new schools campus to the west of the site and to serve these undeveloped lands, with cycle facilities and public footpaths provided

as part of these new streets. The link street continues beyond the school site terminating for vehicles at the underpass of the railway line. At this termination point at the underpass, cyclists/pedestrians can travel east under this bridge toward Bray harbour/north beach/Bray promenade/town centre; one can turn right and travel south along a path to the river/town centre; turn left and travel north through the undeveloped site alongside the railway line where there are clear pedestrian desire lines worn into the grass, with similar desire lines across the centre of the site, both linking to an informal pedestrian connection through a fence into the Corke Abbey Valley Park and associated housing developments to the north and west. It is proposed as part of this application to divert the new link street serving the site to the southeast, just beyond the existing school, with the new route proposed to align with and connect into a planned public transport bridge across the River Dargle, recently proposed by Wicklow County Council as a Part 8 development/currently before ABP in relation to a screening determination. The link street as part of this application terminates at an area of proposed open space labelled 'Coastal Gardens' to the southeast, with bollards proposed at the end of the street. A portion of the application site is located to the south of the existing link street, with the realigned street incorporating that area as a public square, 'Market Square' (through which a proposed wastewater pipe will be rerouted to avoid Block C).

- 10.4.4. I note a number of observers consider the realignment of the street prior to a decision in relation to the Part 8 bridge is premature and the layout as proposed is overly reliant on infrastructure not yet permitted/constructed. However, I consider the revised layout of the link street as now proposed would not hinder the planned Part 8 public transport bridge and I note the delivery of this development is not dependent on the delivery of that scheme (as per the submitted Traffic and Transportation Assessment), with the relocated street acting as efficiently as the existing layout. The revised street layout terminates at the proposed open space, instead of at the DART underpass, which I consider a more desirable urban design solution for pedestrians/cyclists using the underpass, than the termination of the higher order link street at that underpass, which at present draws cars toward this interface area. I therefore have no issue with the proposed realignment of the existing link street and I do consider impacts in terms of flood risk for this section of the link street have been fully considered (I refer the Board to section 10.12). I note, however, with the



realignment of this street that the pedestrian connection from the schools to the DART underpass is no longer a direct route, and the design of the path through the urban square in front of Block C does not allow for a straight desire line across given the position of two car parking spaces and location of the proposed crossing point of the local street. I consider the creation of a more direct desire line could be addressed by way of condition should the Board be minded to grant permission.

- 10.4.5. I consider the overall street network proposed, which comprises a hierarchy of link street, local streets, and two homezones, which are all interconnected, will result in a highly permeable layout and is acceptable subject to conditions.

#### Pedestrian-Cyclist Connections

- 10.4.6. In terms of pedestrian/cyclist movement, the layout is highly permeable, with pedestrian paths and streets linking to each other, and proposed paths linking open space/amenity areas to the north and south of the site and allowing for connectivity into the existing street and pedestrian/cyclist network at the DART underpass and south to the River Dargle. However, I consider the positioning of Block B limits the legibility and permeability of the north-south open space/pathway to the east of the site, which is an important greenway route incorporated within open space, and I consider the existing greenway route to the River Dargle should be further improved/adequately supported in the design of the larger 'Coastal Gardens' open space to the southeast of the site. I discuss these issues further hereunder.
- 10.4.7. Bray MD LAP highlights the importance of improving and providing for new walking and cycling facilities throughout the area both in the interests of developing sustainable communities and moving people out of cars and also in support of developing green infrastructure and recreational links, with links required from the Golf Course Lands to the harbour and north beach to the east and the River Dargle and People's Park to the west. With regard to the proposed path along the railway line of the main body of the site to the east of Blocks A and B, this is shown to be incorporated within an existing open space area. The path itself measures 2m wide. It is referred to in different documents as a pedestrian path and a pedestrian/cycle path, with the landscape plan showing a wider route, a narrow route and these routes merging. The TTA indicates it is a shared path. The Quality 1 Safety Audit queries the safety of the footpath and cycle merge along the east of the site and in

response the applicant states the paths are intended as footpaths, not as cycleways. I consider a design which is for pedestrians only is a weakness of the scheme given the importance placed on cycle-pedestrian routes as per the Bray MD LAP and given the significant opportunity presented to incorporate meaningful footpaths/cyclepaths at this location to connect into the existing network and support more active modes of movement. I consider the pathway along the eastern side of the site, which traverses zoned open space in the DLR area, should be increased in width from 2m to 3m and it should be designed as a combined footpath/cycleway. A condition in this regard is recommended should the Board be minded to grant permission.

- 10.4.8. Furthermore in terms of legibility, I note the proposed open space to the east of Block A is zoned open space (DLRCC) and has an overall width (as measured from beyond the overhang of the balconies) of approx. 24m and is generous in proportion; this open space is reduced down in front of Block B (zoned MU) to 14m with the width reducing further to 10m as one travels south, with it reducing to 7m at the connection point at the corner of Block B, proximate to the DART underpass. The quality and legibility of the path/access route (as well as the function of the open space) is diminished at the southeast corner of Block B, which is at a key interface for pedestrians/cyclists with four routes converging at this point (ie that proposed from the north and existing routes to the west, east and south). I further note details in relation to the tie-in of this pedestrian/cycle route with the existing street at the underpass is lacking/missing. I note the report submitted from the DAU requests additional shrub planting along the boundary with the railway line to provide cover for the movement of mammals including badgers through this area and habitat suitable for the stonechat, a bird species currently inhabiting this section of the development site, which will also affect the width of this section. I consider apartment Block B should be repositioned westwards by at least 3m and the pathway through the open space should be increased in width from 2m to 3m along its entire length up to the connection points into the Corke Abbey Valley Park to the north and onto the street at the DART underpass to the south to deliver and support the attractiveness of this route as a shared pedestrian/cycle path with links to existing/planned paths which are 3m in width, which is supported by the Bray MD LAP Objective R05, GI5 and SLO3. I do not consider the movement of Block B is possible to address by way of condition, given knock on implications for apartment Block C and housing to the

west. I refer the Board to section 10.6 hereunder, where I discuss additional concerns in relation to Block B and Block A.

10.4.9. There is provision for two pedestrian connections at the northern boundary into the Corke Abbey Valley woodland park. I note one informal pathway exists at present through the fence along the northern boundary, with the route on the opposite side of the boundary being down an embankment, which appears to be well used, albeit an unofficial access route. Both CE Reports highlight that while two connection points are indicated in the application, the route through on the other side has not been designed or agreed upon with DLRCC. I note the steep topography on the northern side of the boundary, and I consider it imperative that routes through on the northern side can be delivered at the point of the proposed accesses, given the importance of the connection here as a route for residents to the north accessing the town centre to the south. To this end, should the Board be minded to grant permission a condition in this regard is recommended in relation to the delivery of these connections and routes, to be agreed with DLRCC. The proposed development will improve and formalise connections points at this location and these direct links will support further the sustainable development of these communities and promote active modes of walking/cycling, over the use of cars.

10.4.10. The site layout as proposed at the location of the proposed open space to the southeast (labelled 'Coastal Gardens') makes no reference to the current condition of the path alongside it at the boundary of the railway line, which links to the River Dargle. The section of this path alongside the application site appears to have a width of c. 3m but seems narrower in parts, enclosed by high temporary fencing on the side of the site and overgrowth on the side of the railway, and is finished with a loose gravel. To the south and southwest the path connects into a more formally laid out 3m wide shared pedestrian/cycle track, which connects into the new wide gravel promenade along the river. There is no/little commentary in the submitted documentation in terms of integrating the open space at the boundary with the path and potential/requirement to increase its widths or for resurfacing. This path would appear to be within the ownership of WCC and is outside the redline of the application. I note the level of population which this development would result in and the pathway network at this location requires upgrading to support this additional population. I note objectives R05 and R09 of the Bray LAP requires excellent

linkages to be provided from the site to surrounding areas, with multiple access points for both vehicles and cyclists / pedestrians and enhancement or provision of new greenway. This pathway/greenway clearly requires enhancement at this location to support this future population, therefore, should the Board be minded to grant permission, a condition is required for a revised landscaping plan at this location to include enhancement of the existing pedestrian/cycle route in agreement with WCC, and appropriate consents to undertake works in question.

#### **10.5. Public Realm**

- 10.5.1. The existing link street to the application site is considered hereunder with specific regard to the manner in which proposed buildings/spaces address that street and the quality of the urban edge, given this is the entrance point to this new urban quarter in Bray.
- 10.5.2. To the east and south of the school site/southwest of the application site, and adjoining the existing link street, is the access to an existing foul water underground storage tank (which acts as an overflow to the Bray Pumping Station) and associated above ground odour control unit. The tank and odour unit cannot be moved (see submitted Statement of Proposal, which states discussions were undertaken with IW, DLRCC and WCC in this regard), with a 15m exclusion for buildings around the odour control unit and no construction allowed over the tank. It is stated that car parking and landscaping are two uses allowed over the tank. Access for occasional service vehicles is required by Irish Water. A MUGA is proposed in the area of the underground tank, adjoining the school boundary, and a private commercial car park (to serve workers of the commercial units) is proposed between the MUGA and above ground odour control unit. It is stated that the odour control unit will be screened with stone walls. It is currently bounded by a mesh fence and planting. I acknowledge that the infrastructure cannot be moved or constructed over and note that this impacts the public realm of the adjoining link street, particularly at this point of the street which is poorly addressed by the adjoining school in terms of its urban edge. I consider the proposed MUGA with its permeable mesh boundary will generate a level of activity and visibility from the street, however the provision of a car park for staff of the commercial units at this location will generate a low level of activity with the proposed planting scheme and wall at this location further limiting visibility/interaction with the street. The local street heading north into the site at this

point is overall weak, with the car park to one side and ground level creche on the opposite side (affecting night time activity), and the above ground odour control unit with its proposed screen walls at the street edge further blocking visibility to the north and limiting visibility into/out of the pocket open space at this location. I note the NTA's concern that this car park is contrary to the development principles of Bray MD LAP (I refer to SLO3) which has a requirement that car parking shall be located under or within buildings and the NTA considers this car park could potentially accommodate parking generated by the adjacent school or other developments in the area. The WCC CE Report notes no objection in relation to the car park.

10.5.3. I consider the location of the MUGA proposed as communal open space for residents, adjoining the school (which is at a higher level) is appropriate and the applicant has indicated it can be used by both the school subject to agreement, with a direct access provided from the school site to the MUGA (I note disabled access is not provided for and should be addressed by way of condition should the Board be minded to grant permission). I consider the location of the car parking area negatively impacts on the public realm and its location peripheral to the commercial units/shops combined with the boundary treatment would result in a poorly supervised space (notwithstanding proposals for CCTV), particularly in the evening/at night. Given the restrictions on uses over this part of the site, I consider the area would be more appropriately utilised as a public amenity space with a low/transparent boundary treatment to allow for views across the site from the surrounding buildings and it would further support the amenity needs of the residents of the opposing apartment Block C and housing along the western boundary. The openness of this area as a public open space and the level of activity from this use would contribute in a more meaningful way to the public street at this location and create a level of activity above that which would be generated by a surface car park for local workers. Should the Board be minded to grant permission, I consider a condition in this regard is warranted to provide for a revised landscaping plan, which can incorporate a vehicular route for servicing of the underground tank and lighting of the space in the evenings.

10.5.4. Two commercial units are proposed at the lower ground level of the southern end of Block B on either side of the entrance to the underground car park. Block C to the west also comprises at its southern ground level (which is higher than that of Block

B) two commercial units (labelled Convenience Store and Café) and a childcare facility,. The interface of the southern elevation of Block B toward the street and underpass, and interface of the southern elevation of Block C to the open space/street adjoining is positive in supporting activity and passive surveillance at street level along what will be a busy pedestrian route. However, as noted above, the eastern public open space and pathway is in my opinion poor in terms of its width, which minimises the function and importance of this pedestrian/cyclist connection. While the street level at the southern end of Block B is positive, the northern elevation onto the proposed open space/pedestrian zone is poor with this 58m wide ground level comprising windows to a bike store/car parking/plant room, with no activity/entrances to the block from this elevation. However, the opposing ground level southern elevation of Block A serves an esb room/LV room/bike store/residential amenity space and one apartment on the corner, with the activity from the amenity space and apartment providing on balance activity and some passive surveillance in addition to the apartment above on both blocks. I note the eastern elevation of Block B is predominantly active, with the exception of a short section at the northeast end.

10.5.5. I note the northern ground level of Block A is similar to the northern ground level of Block B with no activity at ground level onto the adjoining open space/pedestrian paths. However, I note the undercroft/part basement level and external ground level to the adjoining path results in the ground level being just under c. 2m above the ground level, increasing to c. 3.5m as the levels change at the northeast corner onto the railway/coastal side, therefore while the apartments along a portion of this elevation are at +1 they are not a full floor height above the external ground level and therefore activity onto this route to the northern park will be relatively well supervised. Similarly in terms of the east elevation of Block A, while the ground level use is inactive, the internal levels/partial basement means the first floor level is only approx. 1m above the adjoining ground level with this increasing along the southern section of the block where the open space is proposed between Blocks A and B.

10.5.6. With regard the wider interface of Block C with the surrounding streets, I note half of the northern and eastern ground level interface is poor with the ground level space serving refuse rooms/substations/bike storage, however, overall the opposing ground level activity from the houses and apartments balance these weaker edges.

10.5.7. I am overall satisfied that the general design and layout of the scheme at ground level would overall provide for a positive public realm, and a highly permeable urban environment, however, as noted above I consider the position of Block B relative to the eastern boundary compromises the quality of the pathway and public open space at this location.

#### **10.6. Height, Scale, Mass and Design**

10.6.1. The height, design, scale and massing of the proposed development is considered hereunder in terms of the quality of the proposed development, with potential impacts on residential amenities considered separately in section 10.9 and 10.10 of this report. As noted previously in this report, Blocks A and B (which face the coast/railway line) are 4-8 storeys high, Block C is 3-6 storeys high, and Block D is 4 storeys high, with the remainder of the development being houses and duplexes 2-3 storeys high.

10.6.2. The applicant states that the proposed development and height is appropriate given the site's location within the Dublin Metropolitan Area, forming part of a 'Key Town'; location within walking distance of the town centre; its proximity to services; the range of existing and planned public transport options (including DART, commuter and intercity rail services, the planned Bray – City Centre Core Bus Corridor and the extension of the Luas to Bray town centre); planning precedent on the site; and the overall design solution proposed.

10.6.3. The CE Report from Dun Laoghaire Rathdown County Council (DLRCC) considers Block A (within its administrative area) by virtue of its form and massing relative to the receiving environment would be visually dominant at this location and when viewed in conjunction with proposed Block B (within WCC area) in the context of the coastal environment would be over scaled and of insufficient design to alleviate the impact of same. It is stated that it is considered that it has not been demonstrated that the proposal would successfully integrate or enhance the character and public realm of the area. The CE Report further states that while the apartment blocks include a degree of articulation with respect to height and footprint, proposed Block A would present continuous five and seven storey facades in excess of 40m along the eastern elevation of the perimeter block. Concerns are raised in relation to the monolithic form and massing relative to the receiving coastal environment, and of

particular note is the uniform layout/pattern of balcony elements and fenestration on the eastern elevation of this block and extent of render, with Block B of similar form, height and external treatment. Given render is proposed throughout, the CE Report considers the mix of materials do not successfully break up the overall massing and form of the apartment blocks. Concerns are also raised in the CE Report in relation to the height of Block D and impact on adjoining residential amenity. The CE Report recommends a refusal of permission.

10.6.4. The CE Report from Wicklow County Council (WCC) states in relation to the general design and layout that they have no significant objection to the overall layout and design and the visual impact is acceptable, however, the apartment blocks should have a brick finish in the interests of visual amenity and durability.

10.6.5. Neither CE Report raises any issues with the design, scale or massing of the houses and duplexes.

10.6.6. An observer submission raises concern in relation to the quality of design at this coastal location and in relation to scale of development against scale of open space provision.

10.6.7. Apartment Blocks A and B each have an overall length of 104m facing the coast/railway line. Block A is broken into two blocks (each 40m/43m long) with a gap between of 15/16m, with this gap occupied by a two storey gym building with external steps on both sides up to a gated podium level open space within the block (the gym appears to have windows on either side 4m opposite windows to apartments). Block B is of similar design and also provides for a gym. There is a distance of approx. 22m-29m between the blocks. Block B is positioned closer to the eastern boundary with the railway than Block A, which is set back in line with the F open space zoning on the DLR portion of the site.

10.6.8. The policy basis for my assessment of the height of the development is informed by both national and local planning policy. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides a detailed national planning policy approach to the assessment of building height in urban areas. It provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased



height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards, including national policy in the National Planning Framework, particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements. In addition to the architectural drawings and design statement submitted, I refer the Board to the submitted verified views/photomontages and landscape assessment, specific assessments including a Daylight and Sunlight Assessment Report and a Microclimate Wind Analysis. I have considered all specific assessments submitted (as listed in section 3.3 above and referenced throughout this report), which I consider are sufficient to assess a development of the scale proposed. I have had regard to all submissions made and have viewed the site from various locations. I have addressed the issue of a possible material contravention in Section 10.14 below. I also refer the Board to Chapter 5 of the submitted EIAR, Landscape and Visual.

- 10.6.9. With regard to local planning policy, there are no building height limits identified within the Wicklow County Development Plan 2016-2022 or the Bray Municipal District Local Area Plan 2018-2024. Appendix 9 of the Wicklow Development Plan highlights the need for quality of design public realm of appropriate scale and design, and in the design of new buildings the following requirements apply:

Good modern architecture with a building language that is varied and forward-looking rather than repetitive and retrospective will be required; however, reference and 'clues' must be drawn from surroundings, particularly in traditional or protected town centre areas;

Variation in external materials will be expected, again subject to 'fit' with surrounding buildings. Care shall be taken in excessive use of contrasting materials and generally no more than two contrasting materials shall be utilised on any façade;

Where a development takes the form of more than one structure (i.e. a number of apartment blocks or a multitude of individual houses), adequate variety in form,

height, materials etc shall be employed, within an overall unified theme, to provide for visual diversity.

10.6.10. Bray LAP, under specific local objective SLO 3, states that development on the Golf Course Lands should be an extension of the town centre and development should flow from old to new without jarring distortions of scale, format or design.

10.6.11. Dun Laoghaire Rathdown CDP 2016-2022 contains a Building Height Strategy under Appendix 9 of the plan. The height strategy indicates that the development of larger greenfield sites may be appropriate areas for increased height. Section 4.8 of Appendix 9 relates to 'Residual Suburban Areas not within the Cumulative Areas of Control' and states '...apartment or town house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate location'. The Plan acknowledges that there are instances where upward or downward modifiers may be applied by up to two floors (see section 4.8.1 and 4.8.2 of Appendix 9 of CDP). It is stated that 'There will be occasions where the criteria for Upward and Downward Modifiers overlap and could be contradictory, for instance: when in close proximity to both a DART station yet within the Coastal Fringe. In this kind of eventuality a development's height requires to be considered on its own merits on a case-by-case basis. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two'. Given the height of Apartment Block A (which is within DLR boundary) is four-eight storeys, the proposal at eight storeys is in excess of what is allowed for in terms of the building height strategy, being greater than two floors above four storeys (assuming the upward modifiers are applied). The proposed Block D (also within DLR boundary), being 4 storeys in height, comes within the height allowable at this location, subject to assessment against the modifiers. I consider that the development materially contravenes the Building Height Strategy and related Policy UD6 with regard to Blocks A and B. I do not consider Block D a material contravention. This issue is addressed further in Section 10.10 and 10.14 hereunder on Material Contravention.

10.6.12. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. The subject site is located within the town boundary of Bray and is a developing area with relatively new access streets

which serve a new school campus comprising two schools. There are existing pedestrian/cycle routes adjoining the site with direct pedestrian/cyclist only connections from the site to the town centre via the DART underpass and via the River Dargle path. Bray-Daly is the nearest DART station, which is located within 800m southeast of the site, which provides for additional connections to the wider area and is a 10 min walk/short cycle trip from the site. The site is also within 690m of a bus stop, with frequent services. I consider the site is ideally located and serviced with options and links between public transport and more active modes and is at a location which will further build on such sustainable options in the future. Supporting a shift in modes of transport to walking and cycling will ultimately benefit all in the community and the proposed development provides for a high level of connectivity into the surrounding network in this regard. The proposed development will support existing transport infrastructure and will not conflict with plans for new infrastructure in this area, including BusConnects, extension of the Luas line, and proposed public transport bridge to the southeast. Furthermore the development of these lands would support any proposed public transport improvements by providing for a critical mass of population at this accessible location within the Metropolitan area, in accordance with national policy for consolidated urban growth and higher densities.

- 10.6.13. At the scale of the district/neighbourhood/street, I have had regard to the character of the existing area and considered whether the proposed development would make a positive contribution to the character and public realm of the area. This is a large undeveloped greenfield site which was in previous use as a golf course. The nearest residential developments comprise two storey semi-detached dwellings to the northwest and north in Corke Abbey and Woodbrook Glen. A new school campus has been constructed to the west. I note the site area is in excess of 0.5 hectares (a DLR upward modifier) and I consider the site is of a scale capable of supporting its own character/context, which can sit alongside the existing area. I do not consider a repetition of the established character and low density pattern of development in the immediate area would be appropriate. I consider the layout has had adequate regard to the amenity of immediately neighbouring residential properties to the northwest (I refer the Board to section 10.10 hereunder in relation to adjoining residential amenity), proposing a scheme of higher density and higher

buildings away from the more sensitive residential boundary to the northwest, however, I have concerns in relation to the approach to the development at the coastal side of the scheme and how it responds to this coastal environment in terms of form, scale, massing and design, and this is discussed further in sections 10.6.13-10.8.20 hereunder). I have no concerns in relation to Block C and D or to the houses and duplexes having regard to my overall comments above.

10.6.14. With regard to the contribution of the site to place-making and delivery of new streets and public spaces, I consider the proposal will have urban design benefits in that it proposes permeable local streets which connect into the existing link street and comprises proposals for pedestrian/cyclist only routes around the eastern perimeter of the site, which connects in with existing desire lines to the DART underpass, riverside walk, and Corke Abbey Valley Park. The development is divided into character areas through the variety of unit type proposed, that is, terraced houses, duplexes and apartment blocks, albeit their distinctiveness is limited through the lack of variety of materials proposed, with render proposed throughout on all the buildings, both houses and apartment blocks (with exception of the lower level of the apartment blocks). Buildings proposed in general address the streets and turns corners and address proposed open spaces. Blocks B and C address new proposed public realm areas to the south of the blocks with active commercial uses and entrances to the buildings from these elevations, which provides for additional activity and passive surveillance of the public realm and for those utilising the DART underpass. While the location of the MUGA and car park limits the quality of the link street at this location (due to site limitations relating to the existing underground tank and odour control unit), I consider this area can be further improved by way of condition in relation to use as open space and further consideration of boundary treatments and planting. At a local neighbourhood/site level, the proposal will provide for additional legibility as one approaches the development from the link street, replacing as it does vacant greenfield lands and the overall contribution in terms of internal layout and connectivity to open spaces is acceptable.

10.6.15. I have had regard to the submitted architectural drawings, including site wide elevations, cross sections, and submitted Verified Views, noting in particular VVM6 and VVM8 as highlighted in the CE Report from DLRCC, the submitted masterplan

study and Chapter 5 of the submitted EIAR (Landscape and Visual). I note the site is not within an ACA and is not affected by any protected views or prospects in either of the governing development plans. The submitted landscape assessment considers the landscape of low significance given the surrounding built up context and its location within the urban character area of Bray, stating the site 'does not have any value in terms of comparative rarity, distinctiveness or amenity value' and in terms of susceptibility and sensitivity to change, it is categorised as Low. The assessment further states the most significant impact will be from the Harbour Wall and from the coast path adjacent to the site, which have been assessed as Medium level of impact and Moderate significance (VVM6 and VVM8).

10.6.16. While I acknowledge the current context of the site and consider it appropriate for development in accordance with its zoning and physical context and note the principle of buildings of height at this location is acceptable, I consider this location, as per the DLR Development Plan, to also be a sensitive coastal fringe location, with the eastern portion of the site of particular importance in terms of its visibility from the coast, at the entryway to Bray from the north via DART and on foot/bike via the coastal walk/planned eastern greenway/north beach and the Harbour wall. I have concerns in relation to visual impact at a more local neighbourhood level when viewed from the coast/from the east given the design, bulk and mass of Blocks A and B as proposed. In terms of wider views, I have had regard to the location of this section of the seafront relative to the historic seafront to the south, the separation distances from the historic seafront and intervening infrastructure, and the location of the development to the west of the railway set back from the coast, which is also further back than the historic seafront promenade. I do not consider increased height at this location would detract from the historic setting of Bray Promenade (VVM6 of verified views) or Bray Cliff Head (VVM 24) or seriously detract from the views west and south.

10.6.17. I consider Blocks A and B would detract from the visual amenity of the area, and while I acknowledge that views can be fleeting as set out in Chapter 5 of the EIAR, it is of importance that the design quality of Blocks A and B is such that the blocks can sit comfortably at this location and are of a quality appropriate to this site. In my mind issues arise with these blocks as a result of the width of the blocks and their orientation toward the coast/railway line, lack of significant variation/modulation

in height between/within the blocks, lack of variety or visual relief in terms of elevational treatment, and proposed use of render throughout as a finish (with the exception of the ground floors), which overall in my view results in a monolithic profile from the east coast. The use of protruding balconies with railings on all elevations to the sea up to a height of seven floors raises concerns in relation to residential amenity and usability of the balconies as well as durability and lack of variety in the elevational treatment.

10.6.18. The Architectural Design Statement and submitted Masterplan states that the intention in the design is to reflect the urban form and finishes of historic Bray, with the use of render and iron railings throughout. It is further stated in terms of maintenance, that the proposed render system will require regular maintenance, repairing and recoating over and above the standard system in coastal environments. This is a contemporary scheme with few buildings of similar scale to what is currently in existence in historic Bray and given the coastal location and scale of the blocks concerned I would have concerns in relation to weathering of the materials proposed, combined with the lack of visual relief in the treatment of the facades. I refer the Board to the Wicklow County Development Plan, appendix 1, which states where a development takes the form of more than one structure (i.e. a number of apartment blocks or a multitude of individual houses), adequate variety in form, height, materials etc shall be employed, within an overall unified theme, to provide for visual diversity. I do not consider Blocks A and B have been successful in this regard. I consider that the proposed Blocks A and B by reason of their design, scale, bulk and mass would be visually obtrusive and would seriously detract from the visual amenities and character of the area when viewed from the east, and in combination with the poor design in terms of façade treatment and architectural expression would not constitute an adequate design response to the context and opportunity of this coastal urban site, and would be contrary to the Urban Development and Building Heights Guidelines for Planning Authorities, 2018. I also refer the Board to Section 10.4.5 of this report, where I raise concerns in relation to the positioning of Block B relative to the boundary at its southeastern corner.

10.6.19. I consider that a split decision to refuse permission for apartment Blocks A and B while permitting the remainder of the development (subject to conditions) would be appropriate in this instance. This would result in the loss of 357

apartments (166 apartments in Block A and 191 apartments in Block B) and two commercial units, and provision of 234 units (80 apartments in Block C, 26 apartments in Block D, 52 duplex apartments, and 76 houses).

10.6.20. With regard to apartment Block D to the northwest, the CE Report from DLR considers a downward modifier should apply to Block D given concern with regard to the height and position relative to the existing two storey Corke Abbey residential properties. I consider that generally the proposal will not have undue impacts in terms of overlooking or overbearance with regard to the neighbouring residential developments to the northwest nor does the proposal represent excessive bulk or scale being 3-4 storeys high (I refer the Board to section 10.10 in relation to impact on adjoining residential amenity). I do not consider a possible material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 in terms of height of Block D arises as the height strategy allows for a maximum of 3-4 storeys in this area.

10.6.21. I consider Block C in terms of the scale of the block, its modulation in height (3 to 5 to 6 storeys) and its layout and design, will contribute positively to the public realm of the Market Square at that location and will increase legibility as one approaches the development from the west, being the first block one encounters beyond the school site. While I acknowledge the block is set back from the street given the presence of wastewater infrastructure, I consider the proposed square and interaction of the building with the square as well as provision for a link east to the DART underpass will all contribute to a positive urban environment and pedestrian legibility at this location.

10.6.22. Overall, I am satisfied that the proposed development, aside from Blocks A and B, will not impact on the character or setting of historic structures; will add visual interest; will make a positive contribution to the skyline of the area and will improve legibility with the height, scale and massing acceptable in townscape and visual terms. It is my opinion that the proposed development, aside from Blocks A and B, will contribute to the sustainable and compact growth of the area. I do not consider that proposed Blocks A and B would satisfy the criteria under Section 3.2 of the Building Height Guidelines, due to the negative impact of the design, bulk and mass of Blocks A and B upon the visual amenity of the area, however, as stated I consider

the remainder of the development complies with Section 3.2 of the Building Height Guidelines, as discussed above.

## **10.7. Open Space**

- 10.7.1. Wicklow County Development Plan 2016-2022 states public open space will normally be required at a rate of 15% of the site area. It is stated that in greenfield developments, a hierarchy of open spaces shall be provided and spaces less than 10m in width or 200sqm in area will not be counted as useable public open space.
- 10.7.2. DLR County Development Plan 2016-2022 states 'the requirement of 15sqm-20 sqm of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. It further states 'The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space irrespective of the occupancy parameters set out in the previous paragraph'.
- 10.7.3. SLO3 of the Bray MD LAP sets out a number of requirements in relation to the development of these lands (which covers lands to the south and west outside of this application site) and states the following in relation to open space 'Not less than 2ha shall be developed as public open space'.
- 10.7.4. Observer submissions consider the level of open space to be substandard and it is contended that as per the LAP one public open space of 2ha in area is required to be delivered as a first phase of development. Concern is raised that there is a risk the development could be built out without a park ever being delivered should the current permission and this application go ahead, given the extant permission to the south does not provide for a 2ha park. It is also considered that additional connections into Corke Abbey Valley Park could increase antisocial behaviour.
- 10.7.5. The CE Report from Wicklow County Council notes under the phasing requirements of SLO3 of the Bray MD LAP, that to kick start the development, a first phase of housing in conjunction with the public park may be developed. The CE Report considers that the development is not consistent with the requirement of SLO3 that a 2ha public park be developed in conjunction with first phase housing. It is considered



this should be delivered upfront. The submitted masterplan outlines the overall development of the Former Golf Course Lands and phasing plan through delivery of separate planning applications. It is indicated that provision has been made for a future park on lands to the south within the control of the applicant. The CE Report considers that the development should not be occupied until a 2ha park is provided.

- 10.7.6. Chapter 10 of the Bray MD LAP relates to Key Development Areas, one of which relates to Bray Golf Course (of which the site forms a part) with a Specific Local Objective SLO3 applicable to the golf course lands and other SLOs applicable to other Key Development Area. As noted above one of the 'requirements' of SLO3 is 'Not less than 2ha shall be developed as public open space'. Another 'requirement' states 'Any application shall include a detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to 'kick start' the development, a first phase of housing, being those units that are not integrated into the mixed use retail / commercial element, in conjunction with the public park, may be developed as a 'Phase 1' of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the retail / commercial element'.
- 10.7.7. With regard to the requirement for public open space, SLO3 states 2ha of public open space shall be provided but it does not state that this is required to be delivered as one park, albeit the wording of the phasing requirement could be interpreted that way and I note the planning authority interprets it that way. Some commercial uses are proposed in this current application alongside 591 houses and apartments and I do not consider the scale of this application would accurately be described as a 'kick start' development (a term used in relation to applications during the recession where mixed use/apartment schemes were not viable and lower density housing was allowed to proceed on portions of key sites). I note the wording of the objective is 'may be developed', with no requirement that a kick start development with park be delivered first and that a mixed use development could proceed. I do not consider this application a kick start development and therefore do not consider this scenario of phasing of housing and public park applies.
- 10.7.8. The total open space provision across the DLR and WCC lands is stated to be 12,179sqm and this figure excludes the F zoned lands. The proposed open space area in this application on the WCC lands is stated to equate to 7717sqm. Having reviewed the open space figures, I consider the open space on the WCC lands is

1.05ha in area. The open space figure is higher as the calculations by the applicant excludes a portion of the open space to the southeast, as per the masterplan it is indicated to be 'subject to future development'. Notwithstanding the statement in the submitted planning report that 'It is envisaged that a mixed use landmark building will be delivered in a subsequent planning application...It is proposed to landscape this area (c. 2,782 sq.m.) on a temporary basis until the mixed use landmark building is delivered', I am assessing this entire area which is within the red line boundary as open space, as proposed on the site layout plan and in the site description. Any future development of a building on this open space would be subject to a separate assessment under a separate application, which would in addition have to address flood risk issues. As proposed, I consider the scale and location of this open space to the southeast acceptable and note it is 6550sqm in area, which results in the open space area on the WCC lands equating to 1.05ha. The Orchard Car Park, should the Board agree that this area should become open space in the interests of improved public realm and residential amenity (discussed elsewhere in this report), is 1221sqm in area. The requirement for WCC of 15% of the site area to be included as open space is therefore met (15% equals 6290sqm). The requirement of the LAP that 2ha of open space be provided for on the MU lands (SLO3) is noted with 50% of this being met in this current application. I note the remainder of the zoned land to the south equates to an area of c. 6ha, 15% of which would require to be delivered as open space under the current development plan policy, with both developments capable of meeting the SLO3 objective for a 2ha park in this area, albeit not delivered as one park and it is not clear to me from the reading of SLO3 that this is required as one park. From the documentation submitted it would appear the applicant does not intend to construct the current permission in place to the south and indicative layouts (see submitted masterplan) for that portion of the site differ from the permission in existence. I note there is no permission for the indicative layouts, including the 1.5ha park indicated on lands to the south and referred to by WCC in their submission and I do not consider it therefore reasonable to apply a condition to seek its delivery as per the request from WCC given its location is not identified in the LAP and there is no permission in place to confirm its location. I consider the area of open space as proposed is reasonable and proportionate to this application.

10.7.9. In relation to observer concerns that a large park may never be delivered should the current permission and this application go ahead, I note the extant permission covers a portion of the application site within its boundary and therefore the two permissions (should this one be granted) could not be implemented given the layouts and site areas are not compatible. There is therefore in my opinion no risk that developments would take place which could not meet the 2ha objective.

10.7.10. I note a material contravention statement has been submitted addressing the issue of the 2ha park. I consider this further in section 10.14 hereunder. In my opinion overall the provision of open space here does not materially contravene any development plan objectives and does not hinder the achievement of those objectives.

10.7.11. A portion of the site along the northern and north-eastern boundaries, within the DLR administrative area, comprises F zoned open space lands, equating to 6358sqm. The site layout indicates these F zoned areas being retained as open space, as per development plan policy. In terms of compliance with DLR open space objectives, the F zoned area is not included in the open space calculations. The open space area proposed outside of the F zoned area relates to the land to the west of/adjoining Block A and to the south of Block A (between Block A and B), with the stated area being 4462sqm (10% of the site area is required, which equates to 3013sqm). The open space requirement is met on the DLR portion of the lands.

10.7.12. The open space to the southeast is located partially within the Dargle flood plain section of the site. Observers raise concerns in relation to the utilisation of the southeastern area of open space as a park given it is part of a floodplain. This issue is discussed further under Section 10.12 of this report hereunder in the context of the Flood Risk Assessment. I consider the use as proposed is compatible at this location.

10.7.13. Objective CD3 of the Bray MD LAP, requires that a MUGA (mixed use games area) be included in all new neighbourhood parks or active open space zones. A MUGA is proposed to the southwest of the development adjoining the school site, with this not proposed to be taken in charge but to be managed by the management company.

## 10.8. **Biodiversity / Ecology and Landscaping**

- 10.8.1. An Ecological Impact Assessment was submitted with the application, dated 24<sup>th</sup> March 2020. I ref the Board to section 12.8 of this report also.
- 10.8.2. A number of observers submissions raise concerns in relation to loss of wildlife and biodiversity, including wildflowers, in addition to the number of trees to be removed and potential impact on birds.
- 10.8.3. As set out within the tree survey report, 20 no. trees on the northern boundary of the site are proposed to be removed over time and the woodland group in the north western corner of the site will need to be reduced along with 118no. trees in the centre of the site to facilitate the construction. I note the ecological assessment of the site indicates the lands, which were a former golf course, do not represent a 'high conservation habitat'. I refer the Board to Section 12.8 of the EIA hereunder which relates to biodiversity.
- 10.8.4. In terms of compensation, 350no. new standard trees and ca. 4500m<sup>2</sup> of native whip planting are proposed. In addition, the landscape proposals include green roofs to apartment blocks, 450m of hedge planting, 2480m<sup>2</sup> of shrub and herbaceous planting in line with the All-Ireland Pollinator Plan 2021-2025, 12,000m<sup>2</sup> of amenity grass and 3940m<sup>2</sup> of meadow grass, which will result in moderate beneficial effects. While there will be losses for biodiversity at a local level as the lands are developed, as raised in observer submissions, I concur with the submission from the Department of Housing, Local Government and Heritage which states that in the longer term the planned landscape planting of trees and shrubs across the development site will mitigate the impact of habitat loss by providing substitute nesting sites suitable for most of the bird species currently using the proposed development site. It is further requested in the submission from the department that amendments be undertaken in relation to the landscaping plan, including the addition of furze and additional planting along the northern boundary. I consider a condition in this regard would be reasonable.

#### **10.9. Quality and Residential Amenity of Proposed Development**

- 10.9.1. The proposed development provides for a range of dwelling types, including terraced houses, duplex units, and apartments.

##### Design Standards for New Apartments

- 10.9.2. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply. Schedules were submitted to demonstrate compliance with the standards.
- 10.9.3. The apartments have been designed to comply with the floor areas as per SPPR3 and appendix 1.
- 10.9.4. SPPR4 relates to dual aspect ratios. Of the proposed apartments, 50% are dual aspect. I consider this acceptable. I note this issue is addressed further within the Material Contravention Statement submitted. There are no single aspect north facing units.
- 10.9.5. In excess of 50% of the apartment units (309 no./67%) exceed by 10% or more the minimum floor areas.
- 10.9.6. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.
- 10.9.7. SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is complied with.
- 10.9.8. A Building Lifecycle Report has been submitted, as required under section 6.13 of the Apartment Guidelines.
- 10.9.9. Car parking provision is considered acceptable and in accordance with guidelines (this is addressed in detail in Section 10.11 hereunder).
- 10.9.10. Section 4.10 of the guidelines refers to the requirement for communal amenity space. Dedicated communal amenity areas are provided for within Blocks A, B and C, and to the southwest of Block D and the proposed MUGA is intended also as a communal amenity area. The proposed development requires a total of 2907sqm of communal open space and it is stated 6182sqm is provided.
- 10.9.11. With regard to apartment Block C, I note balconies on the western elevation overhang the public footpath. I consider a revision to the design of the balconies is required to ensure no overhanging of the public street, which can be addressed by way of condition, should the Board be minded to grant permission.
- 10.9.12. The proposed development overall would provide an acceptable standard of amenity for the occupants of the proposed apartments.

### House Designs and Private Amenity Space

- 10.9.13. In relation to housing, best practice guidelines have been produced by the Department of the Environment, entitled 'Quality Housing for Sustainable Communities'. Table 5.1 of these guidelines sets out the target space provision for family dwellings.
- 10.9.14. Wicklow County Development Plan 2016-2022 states dwellings (including own door duplexes) shall generally be provided with private open space at the following minimum rates: 1-2 bedroom house, 50sqm; 3+ bedroom house, 60-75sqm. Dun Laoghaire Rathdown County Development Plan 2016-2022 states 'for 1 or 2 bedroom houses a figure of 48 sq.m. may be acceptable in cases where it can be demonstrated that good quality usable open space can be provided on site; 3 bedroom houses to have a minimum of 60 sq.m.; 4 bedroom (or more) houses to have a minimum of 75 sq.m.'.
- 10.9.15. I am satisfied that the internal accommodation meets or exceeds the specifications of Table 5.1. The rear gardens associated with dwellings vary in shape and area, providing a satisfactory amount of private amenity space as required by the relevant development plans.

### Housing Mix

- 10.9.16. The unit mix is as follows:

Table 2 Unit Mix

	1 bed	2 bed	3 bed	4 bed	Total
<b>Apartments</b>	171	288	4		463
<b>Duplexes</b>		26	26		52
<b>Houses</b>		13	51	12	76
<b>Total</b>	<b>171</b>	<b>327</b>	<b>81</b>	<b>12</b>	<b>591</b>
<b>As % of total</b>	<b>30%</b>	<b>55%</b>	<b>13%</b>	<b>2%</b>	<b>100%</b>

- 10.9.17. DLRCDP policy RES7, seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy. I note that section 8.2.3.3 (iii) does not

state that larger schemes over 30 units 'shall comprise' but instead states 'should generally comprise' and I consider that this allows for a degree of flexibility regarding the proposed housing mix. I therefore do not consider that the development materially contravenes the development plan in this regard, noting also the provisions of RES7. This matter is considered further in relation to Material Contravention in section 10.14 of this report.

10.9.18. WCDP under Objective HD15 states 'Within medium to large scale housing developments, a range of unit types / sizes shall be provided, including bungalows (this requirement does not apply to apartment only developments)'. Appendix 1 Development Design Standards that 'All medium to large scale housing developments shall include a range of house types and sizes, including detached houses, semi – detached, terraces, townhouses, duplexes and bungalows; unless otherwise specified by the Planning Authority'. It further states 'New apartment developments will be required to include a range of unit sizes to cater for different housing needs'.

10.9.19. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The Apartment Guidelines state under SPPR 1 that 'Housing developments may include up to 50% one-bedroom or studio type units ... and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)'. I have further considered SPPR4, subsection 2 and 3, of the Building Height Guidelines which support a greater mix of building heights and typologies in planning for the future development of suburban locations and avoidance of mono-type building typologies, which the proposed development would support.

10.9.20. The proposal in my opinion serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing

needs of the community, which has traditionally been served by standard two storey housing and is in line with the overarching national aims to increase housing stock, including in the apartment sector, as set out in various policy documents, including, but not limited to, Rebuilding Ireland – Action Plan for Housing and Homelessness (2016) and Housing for All – A New Housing Plan for Ireland (2021).

#### Sunlight Daylight

10.9.21. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. 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. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

10.9.22. The applicant has submitted a Daylight and Sunlight Assessment, section 2 of which outlines the guidelines and standards used and the methodology applied. The applicant’s assessment of daylight, sunlight and overshadowing relies on the standards in the BRE Report “Site Layout Planning for Daylight and Sunlight”; and British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). I note and acknowledge the publication of the



updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), however, this updated guidance does not have a material bearing on the outcome of the assessment and the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.

10.9.23. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state that although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards therefore described in the guidelines are one of a number of matters to be considered in a balanced and holistic approach to assessment of the site context and building design.

10.9.24. I assess hereunder the impact on daylight in relation to the internal layout of the scheme and the units. I have assessed potential impacts on neighbouring properties separately and I refer the Board to Section 10.10 hereunder.

#### Daylight - Internal to the Proposed Buildings

10.9.25. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylighted living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

10.9.26. The proposed apartments layouts include a combined kitchen/living/dining (KLD) room arrangement. As these rooms serve more than one function the 2% ADF value is applicable. The submitted Daylight and Sunlight Assessment applies both a 2% ADF standard and a 1.5% standard to the combined living/kitchen areas, stating

it is considered that 1.5% is the more reasonable standard to apply. In this instance I am applying a 2% ADF value. From the results presented, 498 spaces were assessed covering Block A, B, C, D and some of the houses. In relation to Block A, 129 spaces were assessed, of which 12 of the LKD spaces did not meet the 2% target; all bedrooms met the 1% target. In relation to Block B, 149 spaces were assessed and 26 LKDs did not meet the 2% standard; all bedrooms met the 1% standard. In relation to Block C, 5 spaces did not meet the 2% standard and all rooms within the creche at ground level met the target value of 1.5%; all bedrooms met the 1% target. In Block D, 26 spaces were assessed and all met the 2% standard for LKDs and 1% for bedrooms. All houses assessed met the standards. An overall compliance rate of 93% was achieved if the 2% ADF value is applied to the combined LKDs (97% if the 1.5% ADF standard is applied). It is stated that design mitigation measures have been incorporated into the design, including increased window sizes and reconfigurations of unit layouts and design of balconies. With respect to bedrooms, these all meet the minimum 1% ADF target in the results presented.

10.9.27. In assessing this matter, I am mindful that the BRE guidelines 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'. Where shortfalls have been identified, they are not in my opinion significant in number and are generally limited to those units on the lower floors in corners of the blocks, or which have opposing blocks (where A is opposite B; where B is opposite C) that partially obstruct daylight/sunlight provision. Having regard to the urban design objective to deliver active and strong urban edges to streets and improve pedestrian permeability; to the overall layout and orientation; and to planning policy for higher density housing on zoned and serviced lands, I am of the opinion that the impact on the proposed apartments in terms of the submitted Daylight and Sunlight Assessment Report is acceptable and consistent with emerging trends for medium to high density development in urban areas. While there will be some impacts in terms of daylight with pinch points identified for certain apartments, having regard to the urban design merit of providing opposing block and perimeter blocks to form street edges, in addition to compensatory proposals for additional communal facilities of gyms/co-working spaces/residents lounges, on

balance, the associated impacts and design solutions are in my opinion acceptable and will not result in a significant negative impact on residential amenity of future occupants such as would warrant an amendment to the design or layout of the blocks from a daylight perspective.

#### Sunlight in Proposed Outdoor Amenity Areas

- 10.9.28. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March.
- 10.9.29. Section 5 of the applicant's Daylight and Sunlight Report demonstrates that the main areas of open space associated with apartments at the upper podium levels will receive in excess of the BRE Recommendation of 50% of amenity areas achieving at least 2 hours of sunlight on 21st March - 67% of Block A podium level will be capable of receiving two hours of sunlight on the 21<sup>st</sup> March; 65% of Block B communal; 66%-67% of Block C; and 81% of Block D. It is stated that 59.9% of the creche play area will received at least two hours of sunlight on 21<sup>st</sup> March. In relation to the roof areas, 84-85% of the areas can meet the standard. The communal/public open space areas are stated to be BRE compliant, with 99.4% of the areas achieving the standard. I note the proposed coastal garden area south of Block B is not included or the amenity area in front of Block B and C, however, given the location of these spaces relative to buildings, no significant impacts are anticipated. I also note the space between Blocks A and B is not included, however, given the interlinked nature of this space with the coastal gardens and amenity to the east of Block A, and given east/west access to light, no significant issues here are anticipated.
- 10.9.30. In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am satisfied that the design and layout of the development has been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, when considering design solutions provided and having regard to wider planning aims, are

in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants, as per the Building Height and Apartment Guidelines.

#### Wind Assessment

- 10.9.31. A Wind Microclimate Modelling Report has been submitted with the application, which assesses the pedestrian comfort of balconies and open space, as measured against the Lawson Criteria. The majority of the site and all the balconies are deemed to be suitable for comfortable short term/long term sitting as is the majority of the ground level.

#### Noise Assessment

- 10.9.32. I note a Noise Risk Assessment has been submitted with the application and design mitigation measures proposed. Construction phase impacts are also addressed. Overall, subject to conditions, I consider the proposed dwellings are adequately designed and would provide an acceptable level of amenity for future occupants. I refer the Board to section 12.12 of this report in relation to noise and vibration.

### **10.10. Impact on the Amenities of Neighbouring Properties**

- 10.10.1. The CE Report from DLRCC raises concerns in relation to the scale of Block D and recommends this block be refused permission in addition to Block A. In the reason for refusal, it is stated that by reason of its layout and height, the block will adversely impact on the amenities of existing adjacent properties.
- 10.10.2. The site is bounded by two dwellings to the northwest, numbers 111 and 112 within Corke Abbey. No. 111 backs onto the site and no. 112 shares a rear and side boundary with the site. There are a number of existing trees in an overgrown woodland area at this northwestern boundary with these dwellings, a large number of which are to be removed, some retained, and additional planting proposed.

#### Impacts on Privacy, Overlooking and Overbearance

- 10.10.3. Proposed apartment Block D is positioned to the east of existing dwelling no. 112 and a three storey duplex unit is proposed to the south of no. 112 and no.111. Block D is a distance of c. 11.7m at its closest point and c. 21.6m at its furthest point to the boundary of no. 112. Block D comprises four floors, with the upper level set back. The western gable of Block D comprises three windows on both the first and

second floors serving two living rooms and a bedroom, with the balconies to these apartments on the northern and southern elevations, thereby reducing any perceived level of overlooking of the properties along Corke Abbey. At the third floor/upper level this floor is set back by 2.7m from the building edge, with three windows to two living rooms and a bedroom. A roof terrace is proposed serving the two apartments at this level on the western end of the building, however, given the set back of the terrace, with planting proposed between the edge of the terrace and the edge of the building, as well as the intervening distance of c.15m (from the terraces to the side of 112) and c. 24m from the terrace to the rear garden of no. 112, I do not consider significant overlooking will arise from the terrace and I do not consider the scale of the block will be overbearing in nature. Overall, I consider the distances from the boundaries will ensure no significant overlooking of neighbouring properties. I further note that trees are proposed to be retained between Block D and the boundary with no. 112.

- 10.10.4. The proposed duplex unit south of no. 112 is c. 12m from the rear garden boundary of the dwelling with an overall distance of c. 19m between the elevations of the buildings. The duplex unit is a similar distance to the rear of no. 111 and is set at an angle/southeast of that dwelling. Given the design of the duplex unit with no windows at the upper levels and the angle of the duplex relative to no. 112 and no. 111, there will be no direct overlooking between the properties and I do not consider significant overlooking, loss of privacy or overbearance issues arise.

#### Daylight and Overshadowing

- 10.10.5. In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms.
- 10.10.6. Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are as noted in the BRE Guidelines:
- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
  - ii. Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)

iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)

iv. Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)

v. In room, is area of working plan which can see the sky less than 0.8 the value of before? (ie. if 'yes' daylighting is likely to be significantly affected)

10.10.7. The above noted tests/checklist are outlined in Figure 20 of the BRE Guidelines, and it should be noted that they are to be used as a general guide. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there are likely to be instances where judgement and balance of considerations apply.

10.10.8. The submitted Daylight and Sunlight Assessment Report states in relation to neighbouring properties, that 'no impact assessment was carried out to determine the levels of effect the Ravenswell School and the properties located at Corke Abbey would experience. From a visual inspection of the site plan and the height/scale of the proposed houses that would neighbour the aforementioned properties, an imperceptible level of impact on the existing properties is expected'.

10.10.9. I note the submission in this regard and while I am not suggesting that the potential impact of the proposed development upon existing daylight levels or overshadowing of existing amenity areas would necessarily be unacceptable, the application in my opinion has addressed the issue in quite a cursory manner and I expand on these considerations further hereunder.

10.10.10. Block D is positioned to the east/side of no. 112. There are no primary windows located on the side of no.112 which could be significantly affected in terms of daylight. I note with reference to the tests above, in relation to point (i) the distance of the new buildings to the existing dwellings is not greater than three times their heights. With regard to Block D and point (ii), given there are no main living room windows to the side of no. 112 (the only window being to a bathroom), then the answer to point (ii) is no, and no further assessment is required. With regard to the duplex unit, I note this is set at an angle to the south of no.112, with a distance of 19m between the properties. Given the position of the duplex unit relative to existing dwellings, the height of the duplex unit at c. 10.4m, and given distances involved,

any impact in terms of daylight would in my opinion also be limited. The duplex unit is not positioned to the rear of no. 111, therefore there would be no impact on daylight on no. 111. I do not consider it likely that daylight impact upon existing properties would be significant or so harmful as to warrant a refusal of the development.

10.10.11. The applicant's submitted report has only considered amenity areas within the proposed development in relation to overshadowing. However, based upon my professional experience in utilising BRE guidance and having viewed the site, I can provide an overview of expected impacts. In my opinion any impact in terms of overshadowing from Block D would be limited to early morning given the position of Block D to the east of no.112 and having regard to the passage of the sun, therefore it is not likely that significant overshadowing will arise. The duplex unit is south of no. 112 and will therefore cast a shadow, however given the height of the duplex unit is relatively low at c. 10.4m and given the position of the duplex with only a portion to the rear of no. 112 and given the angle of the garden at no.112, any impact in terms of overshadowing would be limited. As the duplex unit is not positioned to the rear of no. 111, no overshadowing impact is anticipated. Overall, I am content that any overshadowing from the proposed development upon existing amenity areas, would be within an acceptable range.

10.10.12. With regard to impacts on the school site, I note a playing pitch/yard area is located along the majority of the boundary to the west, where two storey dwellings and associated gardens are backing onto the school, with a portion of the building which has windows adjoining rear boundaries of proposed dwellings. I consider the impact on the school building would not be significant given the uses involved, the overall lower height of the dwellings along this boundary relative to the school building, orientation of the development relative to the path of the sun, and overall distances involved. I do not consider the proposal would be overbearing and while the views out from the school will be altered, the change is not unexpected on these zoned lands and given the scale proposed, will not significantly impact the amenity of the school or its users.

10.10.13. Having regard to all of the information before me, including the layout, design and separation distances involved, I consider that impacts on the residential amenity

of the wider area would not be so great as to warrant a refusal of permission or amendment in relation to the design.

#### **10.11. Traffic, Transportation and Access**

10.11.1. I refer the Board to Chapter 8 of the submitted EIAR and Section 12.13 of my assessment hereunder.

10.11.2. A Traffic and Transport Assessment, Engineering Report, Stage 1 Quality Audit, Mobility Management Plan, DMURS Statement and Construction Management Plan have been submitted with the application.

10.11.3. Observers raise concerns in relation to assumptions within the TTA, date of traffic surveys, underestimation of traffic volumes, inadequate car parking provision, and concerns regarding requirement for additional public transport scheme, including Part 8 application for transport bridge.

10.11.4. The application site will be accessed from an existing link street from the R761 Dublin Road. Access is currently also possible from the Ravenswell Road junction with Castle Street. In this regard, the WCC CE Report states it was envisaged at the time of the permission for the neighbouring schools that the junction at the Ravenswell Road was temporary and would in due course be closed off with only cycle/pedestrian access. The CE Report states this junction was never envisaged for major development and should be closed to vehicular traffic which could be addressed by way of condition and recommends said condition to close the Ravenswell Road to traffic.

10.11.5. I note the majority of the east-west extent of Ravenswell Road on the ground has become a part of a promenade along the River Dargle as part of flood alleviation works there and the only section of road that remains is the short section in question between the new access road from the applicant's lands and the junction with main street at the bridge into the town centre. I'm not clear under what permission that existing north-south section of new road was permitted with its access onto Ravenswell Road (it appears to be of same finish with footpaths/cyclepath as the northern link street into the application lands) or if it was constructed for the purpose of construction works relating to roads in the area to serve the schools (ABP ref 244874; although the DLR map differs for D15A/0112). This road connection is not shown in the Masterplan document submitted as an intended future access road to



the site (nor was it permitted/designed into the extant permission on the southern golf course lands, which was to be served via a new road connection onto the R761 further north). In any event, the TTA includes an assessment of this junction of Ravenswell Road with Castle Street (referred to as junction 5 in the TTA) operating with the development in place and also a scenario where it is closed. The TTA considers the impact of development traffic at the junction is negligible if it remains open, stating 'The Lower Dargle Road arm (Stream D) is operating over capacity in the morning peak hour in the base year. This is somewhat exacerbated in the Opening Year +5 scenario but in relative terms this arm carries only modest traffic flows and there is only a modest increase in queuing on this arm'. In a scenario where junction 5 is closed, no issues in relation to capacity of the other junctions arise. I have no issue with the findings of the TTA or the requirement with the planning authority that this junction be closed. I note the proximity of this junction to the commencement of the Riverside Walk and proximity at the bridge to other junctions/potential for traffic conflict, and limited capacity for cars, and I can see the merit in it being closed. However, I do not consider it within the remit of this application to propose a road closure on the existing road within the applicants ownership, which appears to become a public road at the junction with the riverside walk, which I presume is in the ownership of WCC. I consider this a matter to be addressed by WCC separately and is not within the current remit of the Board.

- 10.11.6. A number of junctions were assessed in terms of baseline traffic and assumptions made in relation to future traffic (see 12.13 of this report hereunder). I consider on the basis of the information submitted as well as site inspection and review of the existing transport network, that the findings of the TTA are reasonable and that existing public transport services and the street network can cater for an increased population at this location on the basis of existing infrastructure. Planned connections to any future public transport infrastructure would further strengthen an increase in sustainable and active modes of transport at this location. It is noted that the only junction which raises a concern is the junction of R761/Old Connaught Avenue/Corke Abbey Avenue which will operate 5% over capacity in the future, however, this is not considered significant given the urban context and existing capacity constraints there at present without the development, and overall it is considered the existing road network alongside planned pedestrian/cycle

connections can accommodate the proposed development. I note the DLR transportation department acknowledges difficulties at the Old Connaught Avenue/Corke Abbey Junction and the limited capacity of the Dublin Road. It is noted that the scope for increasing the capacity of the Dublin Road is limited and all future improvements will likely be in line with current DMURS design principles of prioritising pedestrian and cyclist needs and considering the needs of private motor vehicles last. The WCC CE Report notes in relation to the public transport network that the Dublin Road is earmarked for development of the planned bus priority corridor and that additional lands within the control of the applicant but outside the subject site are required for the related upgrades. It is stated that in order to facilitate public transport upgrades, this development should be contingent on the delivery of lands within the control of the applicant for the Dublin Road upgrades. I note the Dublin Road upgrades are a separate project to this development, which is not contingent on those upgrades, as per assessments submitted, with the CE Report noting elsewhere the accessibility of the site to existing high quality public transport in support of the density proposed, with no reference to additional public transport measures being required to facilitate this development. I consider this issue outside the remit of this application.

- 10.11.7. I note observer concerns raised in relation to assumptions made in relation to the traffic model in terms of the lack of provision of a date related to the traffic survey which is relevant in relation to school traffic, particularly if they were closed at the time due to covid. I note the applicant states some surveys were undertaken in June 2019 with additional surveys undertaken in 2019 prior to covid. It is further stated that additional junction surveys were carried out in September 2020 along with 4no. ATCs that aligned with the 2019 locations, which allowed for an assessment of the Covid19 impacts on traffic between the 2019 and 2020 counts and provided a 15% factor for adjustment of the 2020 traffic at the three junctions surveyed in 2020. I have considered this issue and note that traffic surveys overall are affected by the pandemic, however, I am satisfied that the TTA has factored this in as an issue and that notwithstanding this, school traffic covers a short period of time in any given school day and does not give an overall reflection of the capacity of the road network. Furthermore school traffic is something which the mobility management plan addresses and given the location and pedestrian/cyclist opportunities afforded

by this site, it is something which can be further managed at a local level between the local authority and schools.

10.11.8. I have further considered the assumptions made in relation to growth scenarios, including development of the entire MU zoned lands, potential for working from home, in addition to modal share. The CE Report from DLR indicates the TTA is generally acceptable, however it is considered that the car trip generation rates are unrealistic and should be factored up, however, at the same time it is recognised that any road upgrades will be focussed on increasing active travel modes and use of public transport. I do not consider the figures are unrealistic or require revision. This is an urban area, where population growth is to be expected in accordance with national and regional estimates and it is the management of this growth into the future through the development of sustainable communities and focus on active modes of transport which will support the sustainable development of this site. Having reviewed all documentation and submissions made, I am overall satisfied that the as submitted TTA is robust and the assumptions made in relation to car ownership/modal share/cumulative impacts are reasonable and supported by national and regional policy. I am satisfied that the development will not result in any significant adverse traffic impacts at local junctions, such as would warrant a refusal of permission. The comments of TII, which do not state any particular concerns in relation to traffic generated by the proposed development, are also noted.

10.11.9. The site is currently well served by public transport, and while this will be improved in the future through realisation of planned public transport projects, the TTA states the site is not dependent on the listed projects. I note concerns raised in submissions in relation to this issue having regard to planned for but not yet permitted projects of the public transport bridge along the realigned link street; Luas extension to Bray; Bus Connects; and National Cycle Network plans for east coast route immediately to the east of the site and the railway line. The NTA in their recent Draft GDA Transport Strategy 2022-2041 indicated the Luas Bray extension will be delivered within the 2031-2042 phase, and is therefore a long term plan. I am satisfied that current public transport services are of a high quality and frequency and that the site is well placed in terms of access to such facilities as well as by its location within the town within walking distance of a number of services. The layout

of the proposed development supports walking/cycling and connections north-south and east-west across the scheme and into the wider area.

- 10.11.10. Mitigation measures are proposed in the EIAR and include a Construction Traffic Management Plan and a Mobility Management Plan.

#### Car Parking

- 10.11.11. I have reviewed the parking strategy as set out in the submitted TTA. A total of 179 car parking spaces are proposed to serve the houses and duplex units (1 per two bed units, 1.5 per 3 and 4 beds) and 317 spaces for the apartment units in Blocks A, B, C and D (0.65 per apartment and 1 visitor space per 20). The total parking provision is below the maximums allowable within both DLR and WCC development plans.

- 10.11.12. In terms of the non-residential uses, 35 spaces are proposed to be accommodated in the 'Orchard Car Park', with four on-street spaces provided for the child-care facility. It is proposed that the Orchard Car Park will accommodate all of the staff parking requirements.

- 10.11.13. The CE Report from DLR considers that a reduced rate below the maximum would result in a parking requirement for 654 car parking spaces and 506 are proposed (shortfall of 148 spaces). A condition is recommended that one parking space per apartment be provided, which includes visitor/disabled/EV/car share spaces. The CE Report from WCC considers the submitted rationale for reduced parking at this location has been justified in accordance with WCDP and national policy. The car parking and cycle proposals are generally satisfactory. The issue raised by the NTA in relation to Orchard car park is noted, with concerns that the car park does not accord with the LAP principles to location car parking under or within buildings and may generate parking from adjacent schools/development, however the CE Report from WCC considers that applicant is satisfied that the space will be used by commercial workers and it will be managed.

- 10.11.14. Given that the default policy in the Apartment Guidelines is to minimise car parking provision at such locations, the proposed car parking provision is considered acceptable at this location with regard to this policy guidance, particularly given the proximity of pedestrian and cycle infrastructure, proposed connections into existing infrastructure, and the location of the development with a range of services and

facilities within walking distance. The submitted proposed Mobility Management Plan is also noted in this regard. Additional car charging spaces and full details of the car club may be required by condition if permission is granted as only 1 car share spaces is proposed and, as discussed elsewhere in this report, I consider the commercial parking for workers at the Old Orchard should be omitted by way of condition for reasons related to visual amenity and poor urban edge. To address the shortfall in parking for commercial workers, a dual usage of visitor spaces proximate to the commercial uses should be examined and a parking strategy agreed upon by way of condition. Should the Board agree with my recommendation to refuse permission for Block B, there is an overall reduction in the requirement for commercial staff parking.

- 10.11.15. The applicant's Material Contravention statement refers to car parking, which I consider further under Section 10.14 of this report.

#### Bicycle Parking

- 10.11.16. The minimum bicycle parking rates within the Design Standards for New Apartments of 1no. bicycle space per bedroom for residential and 1no. bicycle space per 2no. units for visitor is to be provided, resulting in a total of 988 bicycle spaces for the apartments. The non-residential uses will be provided with 30 cycle spaces. It is stated that 24 no. of these spaces will be provided for within the Orchard car park with the remaining 4 no. located on Market Square shared with the residential visitor parking located there.

- 10.11.17. The DLR CE Report states the majority of cycle parking across the site which is stacked, would likely deter cyclists and impact the uptake of active travel modes. An alternative layout and design for cycle parking is required across the site. The WCC CE Report consider the cycle proposals are generally acceptable.

- 10.11.18. I consider a condition in relation to this issue is warranted, should the Board be minded to grant permission, with the layout and design to be agreed with the two planning authorities as relevant.

#### Construction Traffic

- 10.11.19. The EIAR has addressed construction phase impacts of the development in terms of traffic and noise. All construction activities by their very nature result in

elevated emissions (noise, dust, etc.) and increases in construction traffic above the baseline environment. However, these are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts. The applicant has submitted a Construction Management Plan, an outline Construction and Waste Management Plan, and outline Construction Environmental Management Plan, which employ mitigation measures in relation to traffic management, noise and vibration, air quality and dust control and construction working hours. The implementation of these mitigation measures will further reduce the any adverse amenity impacts during the construction phase.

#### Conclusion – Traffic

10.11.20. Having examined all the information before me, I acknowledge that there will be some increase in traffic movements as a result of the proposed development if permitted, however, I am overall satisfied that having regard to the existing context of the site within walking distance of the town centre, location adjoining existing primary and secondary schools, and overall street network including connectivity for pedestrians/cyclists and vehicles, the proposed development would not lead to the creation of excessive traffic or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

#### **10.12. Water Services, including Flood Risk Assessment**

##### Water and Wastewater

10.12.1. It is proposed to connect the development to the public water and foul sewer network in the area.

10.12.2. The existing wastewater network serving the site comprises a foul rising main and a trunk foul sewer, which enter the site at the northern boundary and turn east then south along the site boundary, where it crosses the Dargle River at the south of the site. There are also two gravity foul sewers to the south of the site. These sewers run from west to east across the site where they outfall to the trunk sewers. Wastewater will ultimately be treated at Shanganagh Waste Water Treatment Plant.

10.12.3. The submitted Engineering Report notes there is an existing Irish Water underground foul water storage tank close to the southwestern boundary of the application site, which was constructed by Dun Laoghaire Rathdown County Council

in 2007 – 2008 and is a critical piece of infrastructure associated with the Bray Pumping Station to the South of the River Dargle. It is stated in the report that ‘As confirmed by Shankill Property Investments Ltd., this tank was installed under a 999-year subterranean lease, allowing the surface area above to be incorporated into the future build out of the lands including capacity to accommodate substantial fill and an Irish Water service vehicle driving above it’. It is stated that the function of the tank is to store foul and/or storm water during exceedance events at Bray Pumping Station. During a storm event the wastewater is pumped from Bray Pumping Station to the tank via an existing rising main. When the storm event subsides, the wastewater is returned via an existing gravity return sewer to the Bray Pumping Station prior to being pumping to Shanganagh Waste Water Treatment Plant. To facilitate the construction of the proposed development, part of the existing Irish Water foul infrastructure will be diverted away from the proposed building, ie diversion of both the existing rising main and gravity return drain serving the storm holding tank approx. 30m south. The storm holding tank is to remain in place.

- 10.12.4. Irish Water in the submitted report on this application in relation to wastewater states ‘the connection is feasible subject to the completion of the Old Connaught Local Network Reinforcement Project (LNRP) which is on Irish Waters current Capital Investment Plan. The estimated time of completion for this project is Q2 2023 (subject to change)’. No issues have been raised in relation to capacity of Shanganagh Waste Water Treatment Plan. I note the works proposed are with Irish Waters Capital Investment Plan, the works are to the IW network, no issues have been highlighted in relation to the implementation of such works, and in all likelihood the construction time of such a development and the works proposed would align. Furthermore, the development will be subject to a connection agreement with Irish Water.

#### Surface Water Management

- 10.12.5. Surface water is proposed to connect into the new surface water network within the site, where it will be conveyed through a proposed surface water network including SuDS and attenuated/managed on site prior to final discharge at Qbar greenfield run-off rates, before discharging to the River Dargle.

10.12.6. The SuDS design will include for permeable paving, swales, filter drains, green roofs (over apartments on eastern portion of site), and tree pits as well as 2no. onsite attenuation systems (tanks). The rate of flow will be controlled by the installation of a flow control device fitted to the discharge pipe from the attenuation systems. A Stormtech attenuation system will be located within the park/open space area within the centre of the site and a sealed underground concrete tank located in the landscaped area within the south eastern corner of the site. A Stage 1 Stormwater Audit was undertaken to inform the SUDS strategy.

10.12.7. I note the outfall from the storm drainage network to the Dargle River will be fitted with a non-return flap valve and high-level overflow to ensure that in the event of high water levels in the Dargle river, the storm water outfall from the proposed development will not be impacted by external water from the river.

#### Flood Risk Assessment

10.12.8. The Bray MD LAP 2018-2024 comprises a Strategic Flood Risk Assessment. The River Dargle Flood Defence Scheme was underway at the time of the adoption of the LAP and the Planning System and Flood Risk Management Guidelines had been published and were considered. Objectives FL2 and FL3 of the Bray MD LAP relate to flooding. I note the existing ground elevations within the site boundary range from approximately 11.50m OD (Malin) in the north-western area of the site to 2.12m OD (Malin) in the southern area of the site, falling toward the river.

10.12.9. A significant number of observer submissions raise concerns in relation to flood risk and protection of the existing Flood Zones A and B from development; concerns are raised in relation potential impact of open space to southeast in flood zone; potential impact of future landmark building on floodplain in the coastal garden to the southeast; concern that flood defences could fail; and lack of clarity over which part of the lowlands of the former Bray Golf Club lands is a floodplain; and concern that a viable floodplain should be maintained on the lower part of the site and that this development should not proceed until that is worked out.

10.12.10. The DLR CE Report raises no concerns in relation to flood risk on their portion of the site. A condition is requested in relation to northern boundary to ensure surface water flow paths are not hindered. The WCC CE Report states that the submitted flood risk assessment shows that the development is in accordance with



the Planning System and Flood Risk Management Guidelines. It notes that a portion of the southern part of the site is within Flood Zone A and B, ie the market square and access road. These are considered 'less vulnerable development' and displaced water is to be catered for in the proposed southern open space/park area. It is stated that the level of flood protection by the River Dargle Flood Defence Scheme mitigates the level of flood risk.

10.12.11. A Site-Specific Flood Risk Assessment (FRA) is submitted as part of this application. It is stated that the modelling carried out for the River Dargle as part of this Flood Risk Assessment does not consider the existing Flood Defence scheme which is a requirement of the 'Planning System and Flood Risk Management Guidelines'. It is stated here will be no impact from the proposed development on the existing River Dargle Flood defence.

10.12.12. The CFRAM flood maps at the southern boundary (River Dargle) of the site are currently under review by the OPW and are therefore not available on floodinfo.ie. As this was the case at the time of undertaking the SFRA for this application, the applicant commissioned Atkins to carry out hydraulic modelling of the River Dargle consisting of a linked 1D-2D hydraulic model using Flood Modeller Pro of the River Dargle and the adjacent lands. I accept the approach adopted in this instance.

10.12.13. Potential flood risk is identified in relation to coastal flooding from the Irish Sea to the southeast of site and fluvial flooding from the River Dargle. Section 6 of the submitted SFRA, 'Detailed Flood Risk Assessment' provides detailed information and associated results of modelling carried out as part of this Flood Risk Assessment. A hydraulic model has been developed of the River Dargle, as noted above, which is used to assess the fluvial and coastal/tidal flood risk based on the proposed scheme design. In accordance with 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' DOEHLG' 2009, the hydraulic model excludes the presence of the flood defences. The hydraulic modelling show the majority of the application site is located within fluvial and tidal Flood Zone 'C'. The southern area of the site is mapped within both a fluvial and tidal Flood Zone 'A' (1% AEP fluvial event or 0.5% AEP tidal event) and Flood Zone 'B' (0.1% AEP fluvial or tidal event) – see Figure 6-2 of the submitted SFRA, which indicates a portion of the market square and open space to the southeast within Flood Zone A and B and

a portion of the realigned access street. It is indicated, as per the submitted fluvial flood extents map that 'highly vulnerable' elements of the proposed development have been located outside of the existing Flood Zone B. The proposed access road and the market square are considered 'less vulnerable' elements, as per the Flood Risk Management Guidelines. Section 7 of the SFRA assesses the potential impact of the proposed access road and the market square within Flood Zone B. Some flood water displacement is predicted as a result of the location with Flood Zone B and this shall be addressed via designed compensatory storage in the southeast of the site. This compensation storage has been provided by designing ground levels within the proposed open space area to the South East of the site to ensure that the existing volume for fluvial flood water displaced due to the proposed access road and Market Square Area during a 1 in 1000 year fluvial flood event is contained within the proposed subject site.

10.12.14. The submitted SFRA notes that from discussions with WCC in January 2021, it was agreed that the proposed underground attenuation system in catchment B (refer to Atkins Drawing 5193890-ATK-01-ZZ-DR-CE-0503) will be a sealed concrete tank to ensure that in the unlikely event of flooding there will be no impact on the availability of attenuation volume within the proposed tank. It is stated that there will be no change in either the extents of flooding or flood levels outside of the Wider Masterplan area as a result of the proposed development and no change to existing ground levels or increase of flood risk at the existing railway underpass.

10.12.15. It is stated within the SFRA the proposed Sustainable Transport Bridge (Planning Ref. PRR 21/869) has not been considered in this assessment, however, this has been considered as part of the Harbour Point Masterplan Flood Risk Review (IE Consulting Report 4979 June 2021) and in the Cumulative Impact Assessment Chapter of the EIAR. I refer the Board also to section 12.10 of the EIA hereunder. I reiterate in response to observer concerns about the wider development of the lower area lands south of the application site, that this application is not assessing future development identified in the masterplan area, which is outside of the red line boundary of this application and which is located within Flood Zone A and B. Any development on those lands will be subject to a separate assessment by way of a separate application which will have to include a SFRA of that portion of the site, having regard to any permitted development in the vicinity. I further note the proposal

for a building on the open space area to the southeast, which would appear to come within Flood Zone A, B and C, is not proposed or being assessed as part of this development. I am assessing this area in its entirety as open space, which is a development type which can be considered in Flood Zone A and B.

- 10.12.16. It is noted the River Dargle Flood Defence Scheme included the construction of new sections of earth embankments/walls and includes for an emergency over land flood route located of the existing flood defence wall. The proposed development does not affect this over land flood route.
- 10.12.17. I note one of the two attenuation tanks proposed to serve the site is within the existing Flood Zone A and B. The submitted Engineering Report states 'Due to the location of the tank within an existing flood zone, the tank and access chambers / manholes will be sealed to ensure the attenuation volume is available during storm events if flooding of the area was to occur, this approach has been agreed in discussions with WCC. The concrete tank will not allow for infiltration to ground'. I am satisfied that the location of the tank has been adequately considered.
- 10.12.18. I note proposals to locate a site compound within Flood Zone A and B. It is stated in the SFRA that 'The Contractor will be required to prepare an emergency plan for managing flood risk during construction...The Contractor is to ensure early warning systems are in place to reduce any potential inundation within the contractor compound and park area due to potential flooding during the works'. I do not consider it appropriate to locate the construction compound within Flood Zone A or B. I recommend that a condition be attached in this regard, should the Board be minded to grant permission.
- 10.12.19. Section 8 of the submitted SFRA considers the various points in the Justification Test. While I note observers concerns in relation to potential for flood risk, I am satisfied that the development meets the requirements of the justification test and I am satisfied with the veracity of the results within the Strategic Flood Risk Assessment submitted.
- 10.12.20. The location of the access route and secondary emergency access route, which was raised as a concern in submissions, have been considered in the SFRA. The main link street into the development is located above the maximum flood level and therefore, in the unlikely event of flooding it will have no impact on the primary

emergency access route. A proposed secondary emergency access route has also been indicated within both the TTA and EIAR, which would traverse the open space to the southeast which is within Flood Zone A and B. This route would comprise of an unsealed road and is located within the extents of the existing 1 in 1000-year (0.1% AEP) fluvial flood extents. It is stated that the probability that the secondary emergency access route would be required due to the primary emergency access being impassable at the same time as a 1 in 1000-year (0.1% AEP) flood event is considered to be a very low probability event and therefore highly unlikely and based on this, the secondary emergency access route is deemed acceptable from a flood risk perspective. I note it is stated in the Statement of Response submitted that 'The emergency access road which routes through the open space provision will consist of reinforced grass construction and will in part overlap with the paths proposed within the open space. The landscape scheme has been designed to accommodate the emergency access and road levels can be accommodated by the existing ground levels so as not to raise levels in this flood zone area. The need for the temporary secondary emergency access route will be replaced once the public transport bridge proposed under Part 8 is built'. Given the site constraints and given this is not a primary emergency route into the site, but a back-up secondary route, and also noting that should the Part 8 bridge be constructed, this route would not be required, I accept the secondary emergency location as proposed. Details in relation to its construction require further agreement with the PA.

10.12.21. I note the Finished Floor Levels (FFL) of the proposed units within the proposed development have been set at a minimum level of 6.10mOD. A freeboard of 2.131m above the peak 0.1% AEP flood level, which is significantly higher than the minimum freeboard requirement of 500mm. The level of flood protection also provided by the recently constructed River Dargle Flood Defence Scheme mitigates the level of flood risk to people, property and the urban environment.

10.12.22. Overall, having considered all of the information before me, I am satisfied the applicant has adequately addressed the issue of flood risk in the submitted Site Specific Flood Risk Assessment, including the potential for fluvial and coastal flood risk, and proposes a surface water management strategy which indicates the proposed development will manage surface water from the site to the greenfield run off rate as per the GDSDS and will not impact on neighbouring sites. Should the

Board be minded to grant permission, I recommend a condition apply requiring a Stage 2 Detailed Design Stage Stormwater Audit, the findings of which shall be incorporated into the development, where required, at the developer's expense and a Stage 3 Completion Stage Stormwater Audit within six months of substantial completion of the development, the findings of which shall be incorporated into the development, where required, at the developer's expense.

#### **10.13. Archaeology and Cultural Heritage**

- 10.13.1. There is a localised ridge running in an east-west direction across the centre of the site, along the county boundary, which is identified as a linear earthwork (DU026- 124---- / WI004-005----) and is described by Archaeological Survey of Ireland as a postulation that possibly formed part of the medieval Pale ditch which denotes a county council boundary. However, the results of a number of archaeological investigations of the feature indicates that it is a landscaped feature dating to recent centuries (I refer the Board to Section 12.16 of the EIAR hereunder).
- 10.13.2. The eastern portion of the county boundary is to be retained within proposed public open space between Blocks A and B, with paving design/marked as part of this locally known 'Nun's Walk', which will echo the alignment of this linear earthwork along with the alignment of the boundary between Dublin and Wicklow. In the submission from the Department of Housing Local Government and Heritage, it is recommended that a condition is attached to any permission that details of any interpretation and/or presentation of this historic feature within the development should be provided and agreed in advance with the PA (DLRCC in this instance) in consultation with the National Monuments Service in advance of any site development works. I consider such a condition reasonable. I further note that the western section of the linear earthwork follows the alignment of the proposed homezone street and there is scope to connect some feature in the paving of the street to connect into the open space to the east, where the applicant proposes to mark the boundary. A condition is required, as per the submission from the department, in relation to the final detail of how this boundary will be marked.

#### **10.14. Material Contravention – Building Height, Density, Unit Mix, Car Parking, Public Open Space, and Dual Aspect**

10.14.1. The applicant has submitted a document titled 'Material Contravention Statement' (see section 5.5 above for a summary). This statement has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The items to be considered are set out within the Material Contravention Statement as follows:

Dún Laoghaire-Rathdown County Development Plan 2016 – 2022:

Height: The proposed height of the development when compared to the Building Height Strategy contained in Appendix 9 to the DLRCDP.

Density: The proposed density of the development when compared to Policy RES 3 the DLRCDP.

Unit Mix: Proportion of 1-bed units proposed when compared with Policy 8.2.3.3 of the DLRCDP.

Car Parking: Quantum of car parking and disabled car parking proposed when compared with Policy 8.2.4.5 of the DLRCDP.

Dual Aspect: Proportion of dual aspect apartments proposed when compared with Policy 8.2.3.1 of the DLRCDP.

Wicklow County Development Plan 2016 – 2022:

Unit Mix: The provision of bungalows within a development in accordance with HD15 of the WCDP.

Car Parking: Quantum of car parking proposed when compared with Appendix 1 - Section 1 Mixed Use and Housing Developments in Urban Areas of the WCDP and the quantum of disabled car parking proposed when compared with Section 7 of the WCDP.

Bray Municipal District Local Area Plan:

Public Park: Aspects of the layout when considered in the context of SLO 3 of the Bray LAP

10.14.2. I shall deal with each of the matters individually below.

**Building Height**

- 10.14.3. With regard to building height, the submitted material contravention statement considers in relation the DLR Building Height Strategy that there are conflicting objectives, with the various caveats, presumptions and references to particular circumstances making it difficult to adjudge. It is stated within the statement that it is reasonable to conclude that there are objectives in the DLRCDP which are not clearly stated, insofar as the proposed development is concerned with regard to building height and therefore the proposed development can be granted permission under the provisions of section 37(2)(b)(ii) of the Act of 2000.
- 10.14.4. While concerns are raised in the CE Report from DLRCC in relation to height, the report does not explicitly state that the height as proposed materially contravenes the building height objectives of the County Development Plan.
- 10.14.5. I do not agree with applicant's position that the objectives are not clearly stated in the DLR county development plan in relation to height. Section 4.8 of Appendix 9 relates to 'Residual Suburban Areas not within the Cumulative Areas of Control' and states '...apartment or town house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate location'. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two'. Given the height of Apartment Block A (which is within DLR boundary) is four-eight storeys, the proposal at eight storeys is in excess of what is allowed for in terms of the building height strategy, being greater than two floors above four storeys, assuming the upward modifiers are applied. I consider the proposal a material contravention of the building height strategy with regard to Block A. I note Block B is within the administrative area of WCC and the WCDP does not provide specific quantitative standards on building height, therefore there is no material contravention in relation to Block B.
- 10.14.6. I consider that the development materially contravenes the Building Height Strategy and related Policy UD6, which states 'It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County'. This matter is addressed in the applicant's Material Contravention Statement and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

### **Density - DLRCDP**

- 10.14.7. I note that the matter of density has been addressed in the submitted Material Contravention Statement, although the applicants do not explicitly state that the proposal represents a material contravention in this regard, they consider that Objective RES3 and provisions of the development plan lack of clarity in regard to the extent to which the density level applicable to the site of minimum 50 units per hectare may be exceeded before being considered as materially contravening the objectives. The planning authorities of DLRC and WCC have not stated that the proposal represents a material contravention in relation to density.
- 10.14.8. I do not consider that the proposal represents a material contravention in relation to density and the proposal is in compliance with RES3.

### **Unit Mix - WCDP**

- 10.14.9. Objective HD15 of the WCDP states 'Within medium to large scale housing developments, a range of unit types / sizes shall be provided, including bungalows (this requirement does not apply to apartment only developments)'. WCDP states in Appendix 1 Development Design Standards that 'All medium to large scale housing developments shall include a range of house types and sizes, including detached houses, semi – detached, terraces, townhouses, duplexes and bungalows; unless otherwise specified by the Planning Authority'. I consider that this caveat of 'unless otherwise specified by the planning authority' allows for flexibility and the CE Report from WCC states the proposed unit mix in this area would not require bungalows, given the location of the development and number of apartments.
- 10.14.10. Under the Bray MD LAP, SLO3 of the Bray MD LAP, which looks at the specifics of the development of this land bank, and states as a requirement 'The residential element shall generally be delivered in a high-density format with the target provision of 1,000 units in a variety of unit sizes and formats'. There is no reference to bungalows in SLO3.
- 10.14.11. The applicant in considering the WCDP, queries whether in relation to Objective HD15 this proposed development is considered solely a housing development, given apartments and a mix of uses are proposed. It is further stated that the provision of ground floor apartments which provide particular ease of access for those with restricted mobility would seem to address the underlying rationale for



such Objective HD15. It is stated that should the Board be of the view that omission of bungalows is a material contravention of the WCDP, it is considered reasonable to conclude that objectives in the WCDP are not clearly stated, insofar as the proposed development is concerned with regard to the provision of bungalows as part of a large scale housing development and therefore can be granted permission under the provisions of section 37(2)(b)(ii) of the Act of 2000.

10.14.12. The CE Report states Objective HD15 requires bungalows, however, given the location of the development and the number of apartments, bungalows in this instance would not be required.

10.14.13. I consider SLO3 of the Bray MD LAP is clear that there is a requirement for a variety of unit sizes and formats on the plan lands, with no reference to bungalows, with the focus being on a high-density format. I further note the flexibility allowed for under Appendix 1 Development Design Standards, which requires a mix of house type and sizes unless otherwise specified by the Planning Authority, and the CE Report states the planning authority does not require bungalows. I do not consider a material contravention issue arises as the site-specific objectives of the LAP are clear.

10.14.14. However, should the Board wish to adopt a precautionary approach on this matter, having regard to Objective HD15 of the WCCDP and SLO3 of the Bray MD LAP, it is open to the Board to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (ii), due to strategic nature of the application and due to the objectives not being clearly stated, insofar as the proposed development is concerned within the operative Wicklow County Development Plan and Bray MD LAP.

#### **Unit Mix - DLRCDP**

10.14.15. Objective RES7 of the DLRCDP states 'It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy'. S.8.2.3.3(iii), Mix of Units – Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m. I

draw the attention of the Board to the fact that this section does not state that larger schemes over 30 units shall comprise...instead it states 'should generally comprise'. I am of the opinion that this allows for a degree of flexibility in this regard.

10.14.16. The proposal for 1 bed units within the DLR administrative area is stated to equate to 25% of the total units proposed. In excess of 20% of the units proposed in the DLR area are over 80sqm. The CE Report of DLR considers the unit mix generally acceptable with regard to RES7 and S.8.2.3.3(iii). The planning authority also acknowledge section 2.2 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), which relates to flexibility in respect of dwelling mix and SPPRs and considers the proposal would accord with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), which supersedes sections of the County Development Plan. The planning authority does not consider the proposal a material contravention in terms of unit mix.

10.14.17. With regard S.8.2.3.3(iii), Mix of Units, I draw the attention of the Board to the fact that this section does not state that larger schemes over 30 units shall comprise...instead it states 'should generally comprise'. I am of the opinion that this allows for a degree of flexibility in this regard.

10.14.18. I do not consider a material contravention arises in relation to unit mix as set out in the DLRCDP.

#### **Car Parking – DLRCDP and WCDP**

10.14.19. Both development plans have policies to promote the reduction of car use in new developments in close proximity to public transport services and proximity to Town Centre, which is in accordance with national policy.

10.14.20. The submitted Statement of Material Contravention states 'the lack of clarity in regard to the extent to which car parking may be provided at a rate below the maximum standard before being considered as materially contravening the objective means that it is not possible to definitively adjudge if the proposed car parking provision materially contravenes the DLRCDP'.

10.14.21. Section 8.2.4.5 of DLR county development plan states that 'the principal objective of the application of car parking standards is to ensure that, in assessing

development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. The Council considers the application of maximum parking standards for non-residential land uses to be a key measure in influencing the travel mode choice for all journeys. Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.
- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- The availability of on-street parking controls in the immediate area.
- The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.
- Other agreed special circumstances where it can be justified on sustainability grounds.

10.14.22. WCC development plan states under Objective TR35 that 'New / expanded developments shall be accompanied by appropriate car parking provision, with particular regard being taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. At such locations, the car parking standards set out in Appendix 1 Table 7.1 shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified'.

10.14.23. The application site is appropriately located for the application of reduced parking standards. Maximum standards are given and I do not agree with the applicant's assertion that the lack of a statement in relation to minimums (which would in my opinion be contrary to traffic management objectives sought) gives rise to a material contravention.

10.14.24. I do not consider a material contravention in relation to this issue arises.

#### **Dual Aspect – DLRCDP**

- 10.14.25. The Material Contravention Statement refers to Section 8.2.3.3 of the DLRCDP. It is stated that 50% of the units within the DLR area are dual aspect and 55% of the overall scheme. No further commentary is provided in relation to this issue.
- 10.14.26. Section 8.2.3.3 relates to Apartment Development and subsection (ii) relates to Dual Aspect, where it is stated 'Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation(1) of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light (1. Where an applicant is seeking a relaxation, all details/requirements will require to be discussed with the Planning Authority at pre-application stage)'.
- 10.14.27. I note that 50% of the apartments within the DLR administrative area are stated to be dual aspect. The CE Report considers the site an intermediate urban location, where under the Apartment Guidelines, a minimum of 50% dual aspect apartments are required. The CE Report states the proposal would comply with SPPR4 of the Apartment Guidelines, however it is stated that the provision would not accord with the minimum 70% dual aspect ratio sought under Section 8.2.3.3(ii). I note the CE Report does not state that this is a material contravention.
- 10.14.28. While the proposed dual aspect ratio is less than the 70% standard set out in Section 8.2.3.3(ii), it is considered that a relaxation as above can apply in this instance given that the applicant has demonstrated adequate daylight, as discussed elsewhere in this report (I refer the Board to Section 10.9). The development is therefore not considered to materially contravene the development plan in this respect.

### **Public Park**

- 10.14.29. Bray MD LAP contains a specific local objective, SLO3, which relates to the MU zoned lands of the Former Bray Golf Course (of which the application site forms a part) and states as a requirement 'Not less than 2ha shall be developed as public open space'. A further requirement is as follows: 'Any application shall include a

detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to 'kick start' the development, a first phase of housing, being those units that are not integrated into the mixed use retail / commercial element, in conjunction with the public park, may be developed as a 'Phase 1' of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the retail / commercial element'.

10.14.30. The Material Contravention Statement considers it is not clear if the public park is required to be 2ha in area or if a public park less than 2ha can be provided in Phase 1. It is stated that the submitted masterplan provides for open spaces in the River Quarter which includes for a public park which will run east – west parallel to the River Dargle and will be a focal point tying the riverfront and seafront. The applicant considers the proposed development in this application to be in accordance with the Bray LAP objective SLO3, however, there is a lack of clarity regarding the phasing of 'public open space' and 'public park' requirements of SLO 3, therefore it is stated that permission should be granted under the provisions of section 37(2)(b)(ii) of the Act of 2000.

10.14.31. I note 50% of this 2ha public open space requirement is being met in this current application (c.1.05 ha open space proposed), with an additional 4145sqm of communal open space which includes a MUGA. I note the remainder of the development land to the south equates to an area of c. 6ha, 15% of which would be required to be delivered as open space under the current development plan policy. I note SLO3 does not require that the park be delivered as one park, although it could be interpreted this way given the wording in relation to the phasing requirement and I note the CE Report from WCC indicates that one park is required. I do not consider the proposed application is a 'kick start' application given the scale of the proposal and mix of uses proposed, therefore the phasing requirement for delivery of the public park as part of a phase 1 is not applicable. I consider there is adequate space across the remainder of the MU zoned lands for a 2ha park to be delivered and this development, which complies with the open space requirements of the development plan, does not need to deliver such a park as a first phase of development and the phasing plan set out in the masterplan addresses where such a park would be located as part of a future application. I do not consider a material contravention issue arises.

10.14.32. Should the Board wish to adopt a precautionary approach on this matter, having regard to SLO3 of the Bray MD LAP, it is open to the Board to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (ii), due to strategic nature of the application and due to the objectives not being clearly stated, insofar as the proposed development is concerned within the operative Bray MD LAP 2018-2024.

### **Section 37(2)(b) Analysis**

10.14.33. I shall now address the issue of material contravention with regard to the relevant legal provisions.

10.14.34. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan, the Board may grant permission where it considers that:

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,
- or
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,
- or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.14.35. Having regard to the provisions of Section 37(2)(b) of the Planning and Development Act (as amended), and based on the assessment above, I consider: that a grant of permission may be considered to materially contravene the DLR County Development Plan 2016-2022 in terms of **building height** only. Given that I consider that it would materially contravene national planning policy on building

height as set out in the Building Height Guidelines and should therefore be refused permission on this basis, I do not address the matter of building height further here.

#### **10.15. DLR Chief Executive Report - Refusal**

10.15.1. My conclusions on the matters raised in the refusal reason recommended in the DLRCC Chief Executive Report is summarised here in the interests of clarity.

Refusal Reason:

1. The proposed development, by reason of the monolithic form, overall design, scale, massing, height of the apartment block elements of the scheme, would be visually incongruous within the receiving environment thereby detracting from the visual amenities of the area, and fails to provide for a scheme of high quality design that assists in promoting a 'sense of place', through layout and detailed design. In addition, the proposed development location on lands predominantly subject to the 'A' land use zoning objective 'to protect and/or improve residential amenity' in the Dún Laoghaire Rathdown County Development Plan 2016-2022, would be reason of its layout and height, adversely impact on the amenities of existing adjacent properties. The proposed development is considered to be contrary to Policy UD1 and Appendix 9 (Building Heights Strategy) of the Dún Laoghaire Rathdown County Development Plan 2016-2022 and the Urban Development and Building Heights Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

10.15.2. Potential impact on visual amenities given the height, scale, mass and design of Blocks A and B (Block A being with the DLR administrative area) are discussed in section 10.6 above, which concludes the Blocks A and B by reason of their design, scale, bulk and mass would be visually obtrusive and would seriously detract from the visual amenities and character of the area when viewed from the east, and in combination with the poor design in terms of façade treatment and architectural expression would not constitute an adequate design response to the context and opportunity of this coastal urban site, and would therefore not satisfy the criteria set out in section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities, 2018. I note the height of Blocks A and B would contravene the

Building Heights Strategy in Appendix 9 of the development plan. It would be open to the Board to consider granting permission under section 37(2)(b) as the issue of height is addressed within the submitted Material Contravention Statement.

10.15.3. With regard to the section of the refusal relating to Zoning Objective A ‘to protect and/or improve residential amenity’ in the Dún Laoghaire Rathdown County Development Plan 2016-2022, I have had regard to the impact of Block D and the location of the duplex unit at the boundary to the northwest with Corke Abbey Park in section 10.10 above, which concludes Block D would not impact negatively on the amenity of neighbouring properties having regard to its layout and height. I disagree with the planning authority in this regard. I do not consider a material contravention issue arises in relation to the height of Block D.

10.15.4. With regard to the consideration of creation of a sense of place through layout and design, I note the CE Report considers the manner in which the county boundary is treated/lack of detail in this regard is a missed opportunity for the site to develop upon its own sense of place. While I agree that an elaboration of this issue may have yielded a more considered design approach, I consider the layout provides for sufficient space for a condition to agree the design approach and this can be satisfactorily incorporated within the proposed layout (see Section 10.13 of this report above).

#### 10.16. **Other Matters**

##### Constitutionality of Legislation and Ministerial Guidelines

10.16.1. One submission questions the constitutionality of legislation and ministerial guidelines. It is beyond the remit of this report and recommendation to address constitutional matters.

##### Consultation

10.16.2. Consultation has been undertaken in compliance with the Planning and Development Act 2000, as amended, and the Planning and Development (Housing) and Residential Tenancies Act 2016. Public participation is allowed for in the application process and I have considered all submissions made in my assessment.

##### Procedural Issues



10.16.3. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations.

10.16.4. In relation to observer and Elected Member representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and it forms the legitimate process for the determination of this application.

10.16.5. I having reviewed all documentation as part of my assessment and site inspection and am satisfied the drawings and information submitted is in accordance with legislative requirements. The application was deemed valid when lodged with the offices of An Bord Pleanála.

#### Property Value

10.16.6. Having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

#### Part V

10.16.7. I note changes have been made in relation to Part V under the Affordable Housing Act 2021 and this may impact the applicants Part V obligations and a review will be required. This issue can be addressed by way of condition and 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.

#### Wind Tunnelling

10.16.8. I have no information before me to believe the proposed development would give rise to wind tunnelling effects in the area, given the heights of the structures proposed. Neither planning authority has not raised concerns in this regard.

#### Childcare Analysis

10.16.9. The applicant has submitted a Childcare Demand Analysis (CDA). The Childcare Facilities Guidelines for Planning Authorities recommends a minimum provision of 20 childcare places per 75 no. dwellings. I note that Section 4.7 of the

'Sustainable Urban Housing: Design Standards for New Apartments' states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area, with 1 bed or studio units generally not be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms.

10.16.10. I note there appears to be a lack of sufficient spare capacity in childcare facilities in both DLRCC and WCC, with the submitted Childcare Demand Analysis stating 'the Dún Laoghaire-Rathdown Childcare Committee advised that they are aware that childcare provision within the catchment area of Dún Laoghaire-Rathdown is currently at full capacity. Demand is high and provision is currently not meeting this demand. The Wicklow Childcare Committee stated that information received from parents over recent years in particular strongly indicate a need for childcare places in the Bray area'. The development proposes a childcare facility at the ground level of Block C, measuring 627sqm, which can cater for 88 childcare spaces. The proposed development on the basis of the Childcare Facilities Guidelines requires 112 childcare spaces, where 1 bed units are excluded from the calculation. The applicant in their submitted childcare analysis has excluded 50% 2 bed units from their assessment, calculating a requirement for 63 spaces, with provision for a facility of 88 spaces proposed as a midpoint between 50% of the two and 100% of two beds being considered. Given trends toward smaller family sizes and given the location is under pressure for childcare spaces, I consider it excessive to exclude 50% of the two bed units from the calculations, having said that, the provision is for less than a 50% discount and the shortfall in spaces (112 required versus 88 proposed) is marginal. I consider the scale of the facility as proposed is acceptable. I note that this childcare facility will meet only the needs of this application and any development in the wider landbank will have to provide for additional childcare facilities, having regard to childcare guidelines.

10.16.11. The WCC CE Report considers the childcare facility proposed to be acceptable, however, considers it should be provided in the first phase of development. I consider a condition in relation to timing of the delivery of the childcare facility is warranted, should the Board be minded to grant permission.

### School Demand and Concentration Report

- 10.16.12. I am satisfied, having regard to the information presented with the application, that there is adequate capacity within schools in the area to accommodate the proposed development. I have no concerns in relation to the impact of proposed dwellings and apartment blocks in terms of overlooking or overbearance on the existing schools.

### Other Facilities

- 10.16.13. I note the planning report submitted considers availability of healthcare services in Bray. There are a range of facilities available proximate to the site in the town centre. Having reviewed the site and area, I consider the level of services and amenities on offer in Bray, including in relation to healthcare, is adequate to meet the needs of additional population at this location.

### Climate Change

- 10.16.14. I note the location of the site within walking distance of Bray town centre and associated services and amenities including employment, adjoining school sites, and access to public transport, with a focus in the proposed development on pedestrian/cycle connectivity within and into adjoining areas, promoting use of active travel and public transport over use of the private car.
- 10.16.15. The Building Lifecycle Report and MEP Engineering Report and Energy Statement prepared by Atkins included in the application documentation provides detail with respect to energy assumptions, how the buildings have been designed to improve their energy ratings and reduce their carbon emissions, and compliance with the Nearly Zero Energy Building (NZEB) standard, as per the building regulations.
- 10.16.16. I note that the matter of climate change has been addressed in the submitted EIAR and I am satisfied that no significant negative impacts are likely in relation to climate as a result of this development.

### Boundary Wall to Railway Line

- 10.16.17. A solid 2.4m high wall along the eastern boundary is proposed, as a requirement of Córas Iompair Éireann.

- 10.16.18. Irish Rail in their submission requires the location of the boundary to the railway to be reviewed, with the location and treatment to be agreed prior to development.
- 10.16.19. The WCC CE Report considers in the interests of visual amenity, the final treatment of the proposed 2.4m wall should be agreed prior to development. The DLR CE Report queries whether the proposed 2.4m wall at the interface with the railway line/coastline is required by Iarnród Éireann and states given the coastal location, there is potential for a more visually permeable alternative to this treatment to provide an improved outlook for the proposed scheme, with a condition recommended in relation to the materials, colour and form of the site boundary details.
- 10.16.20. I agree with the concerns of both planning authorities in relation to the scale and finish of the proposed 2.4m boundary wall and consider a more visually permeable solution would be preferable. A condition in this regard is recommended should the Board be minded to grant permission.

#### Phasing

- 10.16.21. The WCC CE Report considers the proposed phasing plan is not acceptable. It is considered that Block C, Market Square and the southern public parkland should be provided within the first phase of development. I consider this approach would be reasonable. A condition in this regard is recommended should the Board be minded to grant permission.

## **11.0 Appropriate Assessment**

- 11.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

Compliance with Article 6(3) of the EU Habitats Directive

Screening the need for appropriate assessment

The Natura Impact Statement and associated documents

Appropriate assessment of implications of the proposed development on the integrity each European site

## **11.2. Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Bray, a residential development comprising 591 units with commercial uses, located approx. 120m west of the coast, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

## **11.3. Screening the need for Appropriate Assessment**

- 11.3.1. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered stage 1 of the appropriate assessment process i.e. screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.
- 11.3.2. The applicant has submitted a Natura Impact Statement, within which is a section on Appropriate Assessment Screening (Natura Impact Statement by Atkins, dated July 2020).
- 11.3.3. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible Zone of Influence of the development. The screening is supported by associated reports, including ecological field surveys

undertaken in February, July and August 2020, involving habitat survey and mapping, bird survey, bat survey, mammal survey, examination of badger evidence/sightings, Strategic Flood Risk Assessment, Harbour Point Ground Investigation Report, Outline Construction Environmental Management Plan, Stormwater Impact Assessment Report, Landscape Design, and Lighting Design.

11.3.4. The applicants AA Screening Report concluded that:

‘During the construction phase of the project, works will involve construction of a drainage outfall on the banks of the River Dargle and there is therefore the potential to affect the water quality of this watercourse. Also given that during the operational phase of the proposed development drainage (storm water / treated foul water) from the development will outfall to the River Dargle and the Irish Sea, it is concluded by the authors of this report that in the absence of additional measures, it is not possible to screen-out likely significant effects on Rockabill to Dalkey Island SAC Qualifying Interest species; Harbour porpoise. Thus, it is recommended by the authors of this report that the proposed project should be brought forward to the second stage of the assessment process, i.e. full Appropriate Assessment’.

11.3.5. Having reviewed the documents, all submissions, and consultation with the Department of Housing Local Government and Heritage, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment - Test of Likely Significant Effects

11.3.6. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

11.3.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief Description of the Development

- 11.3.8. The proposed development comprises the construction of 591 no. residential units (in a mix of apartments, duplexes and houses) and ca.1,336 sq.m of other uses comprising of a retail unit, 2 no. commercial units, a childcare facility and a café, all associated and ancillary development and infrastructural works, hard and soft landscaping and boundary treatment works, associated car and bicycle parking spaces at surface and undercroft levels on the former Bray Golf Club lands, in the administrative areas of Dún Laoghaire-Rathdown and Wicklow County Councils. The proposed development is situated on a 9.37ha parcel of land, to the north of Bray Town Centre. The proposed maximum height of the apartment blocks will be ca. 8no. storeys and ca. 35mAOD (at Apartment Block A).
- 11.3.9. There are no rivers/streams/water features on the site. There are 2no. rivers/streams in the immediate vicinity; River Dargle (River Waterbody Code: IE\_EA\_10D010300) is located immediately south of the Site and the Rathmichael stream (European Code: IE\_EA\_10D010300) is located ca. 0.15km north of the Site (EPA, 2021). Both the Dargle River and Rathmichael stream flow in a general easterly direction before discharging to Dargle Estuary and Southwestern Irish Sea - Killiney Bay (HA 10) respectively.
- 11.3.10. Surface water runoff from the development will be attenuated to greenfield rates in accordance with GDSDS using a hydrobrake on the surface water outlet. Surface Water flow exceeding allowable outflow rates will be stored in underground storage units (for rainfall events up to 1 in 100-year return period, with a 30% allowance for climate change). Surface water drainage for the proposed development will employ Sustainable Urban Drainage Systems (SuDS) techniques. The SuDS features proposed to be used in the drainage network include modular permeable paving; swales; filter drains; tree pits and underground storage units. Surface water drainage for the proposed development will be via 2 no. attenuation / storm water storage units with outfall at one location to the River Dargle.
- 11.3.11. Foul water from the proposed development will connect to the local foul water network with final treatment to be at Shanganagh Waste Water Treatment Plant (WwTP), from where it is discharged into the Irish Sea post treatment.

#### Submissions and Observations

11.3.12. I have summarised hereunder points made in relation to European Sites from submissions and observations made in relation to this application.

Department of Housing Local Government and Heritage:

- It is considered that there is a limited possibility of pollution originating from the development site during the construction phase of the proposed development due to the mobilisation of silts or accidental discharge of fuel, other oils or cementitious materials and these pollutants then being transported by water run-off into the River Dargle and the waters outside Bray Harbour. Effects on water quality in coastal waters outside the harbour could impact on harbour porpoises which have often been reported from the waters off the harbour and are also likely to frequent the Rockabill to Dalkey Island SAC. The Natura Impact statement (NIS) and Outline Construction Environmental Management Plan (CEMP) supporting this application set out various mitigation measures which will be employed during the construction of the proposed development to avoid pollutants being transported off the development site into the Dargle, including the protection of the existing site drainage network by physical barriers, the storage of oils and refuelling of machinery in bunded areas and the careful planning and supervision of the transport and laying of cement and concrete. The NIS concludes that with the implementation of such mitigation measures the proposed development will not have an adverse effect on the integrity of the Rockabill to Dalkey SAC or any other European site. This Department agrees with this conclusion. The employment of the mitigation proposed to avoid water pollution should also protect trout, salmon and other fish stocks in the River Dargle, and birds such as mute swans occurring on the river and in Bray Harbour.

One observer submission considers the information is insufficient, contains lacunae, and is not based on appropriate scientific expertise, with concerns raised summarised as follows:

Inadequacies and lacunae in the AA Screening Report and NIS and the Board does not have sufficient or adequate information to complete an AA.

Lack of sufficient reasons or findings in AA Screening assessment.



Screening Assessment is flawed as protected sites ruled out on the basis of mitigation measures.

NIS is flawed as it does not consider all aspects of the development such as construction compounds and haul roads.

NIS seeks to rely on an assessment of collision/flight risks in the EIAR.

Insufficient surveys have been carried out to assess potential impacts arising from bird collision/flight risks insofar as proposed development may impact bird flight paths.

The Zone of Influence in the NIS is not reasoned or explained.

NIS fails to identify and consider all potential impacts on protected bird species, including potential collision flight risk during construction and operation.

No regard/inadequate regard to the cumulative effects of the proposed and other development on the protected sites.

Insufficient site visits carried out and absence of detail as to the methodology utilised for the site visits.

The main channel of the River Dargle is designated as a salmonid water and badger activity has been recorded on the site.

Reliance on NIS submitted for Shanganagh WwTP is impermissible and contrary to the Habitats Directive.

- 11.3.13. I have reviewed all submissions made and issues where relevant are addressed within my assessment hereunder.

#### European Sites

- 11.3.14. A potential zone of influence has been established having regard to the location of a European site, the Qualifying Interests (QIs) of the site and their potential mobility outside that European site, the source-pathway-receptor model and potential environment effects of the proposed project. Harbour porpoise, which is a QI species of Rockabill to Dalkey Island SAC, is an example of a mobile species which can cover significant distances along the Irish coastline, as are SPA waterbird species, such as the Roseate Tern which has recently been noted as breeding in

small numbers in Dalkey Island SPA during 2020 and which have an important breeding colony within Rockabill SPA. Therefore, the mobility of QI species and their potential to range outside of the delineated boundaries of their respective European sites has been considered as part of this assessment.

11.3.15. Drainage during the operational phase of the proposed development will outfall to the River Dargle and Irish Sea. Given that a number of the European sites within the potential zone of influence of the proposed project are coastal or marine in nature, hydrological connectivity exists from the development site to the coastal and marine based European sites via the River Dargle and Irish Sea.

11.3.16. 13 European Sites (9 no. SACs and 4 no. SPAs) have been considered as potentially within the zone of influence of the site:

**Table 4 Screening Summary Matrix and possibility of significant effects:**

European Site	Distance	Screening Comment
<p><b>Bray Head SAC (000714)</b></p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>c. 1.7km from site</p>	<p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>Proposed construction activities include small scale works on the banks of the River Dargle and drainage from the proposed project site will outfall to the River Dargle and Irish Sea once the development is completed. Therefore, indirect connectivity exists to this coastal SAC from the proposed development project via the River Dargle and the Irish Sea.</p> <p>Potential indirect impacts from the proposed project via the hydrological pathway of the Irish Sea on terrestrial heath habitats located on top of the headland are precluded given the lack of possible connectivity. Potential indirect impacts via the hydrological pathway of the Irish Sea on terrestrial cliff habitats are not considered likely given that only the base of the cliffs are in contact with coastal waters. Also, given the</p>

		<p>dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which the conservation objectives of the SAC could be affected. The proposed development once completed may lead to an increase in public footfall within Bray Head SAC. There are formalised and managed pathways through Bray Head some of which are through heathland habitats and along cliff tops. The objectives and principles of Bray Head Special Amenity Area Order detail extensive measures for the management of increased public access as well as for the maintenance of recreational walkways to be undertaken in combination with the protection of the heath and cliff habitats. Given that the formalised paths through Bray Head are already heavily utilised by the public, and given the paths and heaths are subject to continued management and maintenance measures, it is considered that any increase in footfall that may occur along Bray Head's formalised pathways as a result of the proposed development is not likely to have significant effects on Bray Head's heath and cliff habitats in view of their conservation objectives. This site is not therefore considered further.</p>
<p><b>Rockabill to Dalkey Island SAC [003000]</b></p> <p>[1170] Reefs</p> <p>[1351] Harbour porpoise <i>Phocoena phocaena</i></p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of</p>	c. 4.1 km	<p>There is no direct overlap between the development site and this SAC. The QI habitats and species are marine in nature and therefore do not occur within the project site. The site lies within OS 2km grid square; O21U; this includes adjoining coastal waters. NBDC map viewer includes recent records of porpoise within this grid square (09/04/2020). Proposed construction activities include small scale</p>

<p>the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		<p>works on the banks of the River Dargle and drainage from the proposed project site will outfall to the River Dargle and Irish Sea. Therefore, the proposed project has potential indirect connectivity to the qualifying interests of this SAC via the River Dargle and the Irish Sea. During the operational phase of the proposed development foul waters will be treated at Shanganagh WwTP. Treated waters from the WwTP outfall to the Irish Sea. Therefore, the proposed project has potential indirect connectivity to the qualifying interests of this SAC via discharged treated waters from the WwTP at Shanganagh. Also given the mobile nature of the QI species; Harbour porpoise, there is potential indirect connectivity to this Rockabill to Dalkey Island SAC QI species where harbour porpoise may occur within marine waters outside of the SAC site extents / near Bray Harbour. <b>Rockabill to Dalkey Island SAC is considered further.</b></p>
<p><b>Ballyman Glen SAC (000713)</b></p> <p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[7230] Alkaline fens</p> <p><u>Conservation Objective:</u> to restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p>	<p>c. 2.2km</p>	<p>There is no direct overlap between the development site and this SAC, nor do these habitats occur within or in close proximity to the project. There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors. The project site is downstream of Ballyman Glen and as such cannot influence the features of interest of this SAC. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to</p>

		affect the conservation objectives of these habitats. This site is not considered further.
<p><b>Knocksink Wood SAC</b> <b>[000725]</b></p> <p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[91E0] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		There is no direct overlap between the development site and this SAC, nor do these habitats occur within or in close proximity to the project. There is no indirect connectivity from the project site to this SAC via surface water features, drainage ditches or by any other vectors. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats. This site is not considered further
<p><b>Glen of the Down SAC</b> <b>(000719)</b></p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p><u>Conservation Objective:</u></p> <p>To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Glen of the Downs SAC.</p>	c. 7km	There is no direct overlap between the development site and this SAC, nor do these habitats occur within or in close proximity to the project. There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats. This site is not considered further.
<b>Wicklow Mountains SAC</b> <b>(002122)</b>	c. 7.5km	This mountainous SAC is designated for a range of habitats and for the conservation of

<p>[3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>[3160] Natural dystrophic lakes and ponds</p> <p>[4010] Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>[4030] European dry heaths</p> <p>[4060] Alpine and Boreal heaths</p> <p>[6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i></p> <p>[6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>[7130] Blanket bogs (* if active bog)</p> <p>[8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p>		<p>otters found within the rivers of the Wicklow mountains. There is no direct overlap between the development site and this SAC, nor do any of these habitats occur within or in close proximity to the project. Given the lack of direct or indirect connectivity the project will similarly not impact the otter populations associated with this SAC. There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats. This site is not considered further.</p>
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<p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>[1355] <i>Lutra lutra</i> (Otter)</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>		
<p><b>South Dublin Bay SAC [000210]</b></p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	c. 10km	<p>South Dublin Bay SAC is designated for a range of coastal and estuarine habitats. There is no direct overlap between the development site and this SAC, nor do protected coastal or estuarine habitats occur within or in immediate proximity to the project site. Indirect connectivity exists to this SAC via ca. 10km the Irish Sea, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats. This site is not considered further.</p>
<p><b>The Murrough Wetlands SAC (002249)</b></p>	c. 11km	<p>There is no direct overlap between the development site and this SAC, nor do protected coastal or wetland habitats occur within or in immediate proximity to the project</p>

<p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Alkaline fens [7230]</p> <p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		<p>site. Indirect connectivity exists to this SAC via ca. 11km the Irish Sea; however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats. This site is not considered further.</p>
<p><b>Carriggower Bog SAC (000716)</b></p> <p>Transition mires and quaking bogs [7140]</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of Transition mires and quaking bogs in Carriggower Bog SAC.</p>	<p>c. 11.3km</p>	<p>There is no direct overlap between the development site and this SAC, nor do protected wetland habitats occur within or in close proximity to the project. There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors. The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation</p>



		objectives of these habitats. This site is not considered further.
<p><b>Dalkey Islands SPA (004172)</b></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	c. 6.4km	<p>There is no direct overlap between the project site and this SPA. The project site does not accommodate habitat that would provide for suitable nesting sites for terns. Terns feed within the marine environment on aquatic species and do not feed in terrestrial sites and as such the project site does not provide for tern foraging habitats. The project site is sufficiently remote (ca. 6.4km) so as to negate disturbance related impacts on tern populations accommodated within the SPA. The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>Wicklow Mountains SPA (004040)</b></p> <p>[A098] Merlin <i>Falco columbarius</i></p> <p>[A103] Peregrine <i>Falco peregrinus</i></p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	c. 7.7km	<p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species. The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA. While during the winter months both merlin and peregrine falcon move to coastal wetlands to hunt, the former Bray Golf Club lands would not be seen as optimal foraging habitat by either species. Development of the site in Bray is considered unlikely to have an impact on ex-</p>

		<p>situ hunting by either species which is nesting in the Wicklow Mountains. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>South Dublin Bay and River Tolka Estuary SPA (004024)</b></p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p>		<p>There is no direct spatial overlap between the works area and this SPA. The project site is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. As noted the Bray Harbour I-WeBS count site (I-WeBS site code; OT907) is located around the mouth of the Dargle. I-WeBS data records from Bray Harbour supports relatively low numbers of species for which South Dublin Bay and River Tolka Estuary SPA is designated (predominantly gulls, refer to Table 4-2). However, these sightings are confined to coastal / estuarine waters and not within the project site. A number of species such as Light-bellied Brent Geese, Curlew, Black-tailed Godwit, Oystercatchers and gulls do utilise terrestrial lands / fields in the wider landscape (i.e. away from the SPA or coastal waters). The Bray Harbour I-WeBS count site does not include any of the terrestrial lands of the project site. However, there is no evidence of the project site being used by field feeding species. Site surveys undertaken in winter 2020 for this project did not record any field feeding species</p>

<p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p>[A999] Wetland and Waterbirds</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>		<p>within the proposed project site. Furthermore, it is noted (as observed on site inspection) that the site is prone to high levels of disturbance from walkers and dogs. Indirect connectivity exists to this SPA via the Irish Sea, however, given the dilution and dispersal that would occur within ca. 10km of the Irish Sea this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>The Murrough SPA (004186)</b></p> <p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p>	<p>c. 12.1 km</p>	<p>There is no direct overlap between the works area and this SPA. The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. I-WeBs data records relatively low numbers of some of the SPA waterbird species (predominantly gulls, refer to Table 4-2) within the Bray Harbour count site, however these sightings are confined to the aquatic environment and not the project site. The site does not provide any suitable habitat for offshore species such as Red-throated diver or Little Tern. As noted the Bray Harbour I-WeBS count site (I-WeBS site code; 0T907) is located around the mouth of the Dargle. I-WeBs data</p>

<p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>To maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.</p>		<p>records from Bray Harbour supports relatively low numbers of species for which The Murrough SPA is designated (predominantly gulls, refer to Table 4-2). However, these sightings are confined to coastal / estuarine waters and not within the project site. Indirect connectivity exists to this SPA via the Irish Sea, however, given the dilution and dispersal that would occur within ca. 10km of the Irish Sea this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
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### Identification of Likely Significant Effects

11.3.17. Further to the assessment in Table 4 above, given the location, nature and scale of the proposed project, the qualifying interests of the Rockabill to Dalkey Island SAC is considered further. Harbour porpoise [1351] are mobile species, which have been recorded within the coastal waters around Bray Harbour. Porpoise prey on aquatic species which are in turn dependent of good water quality. Small scale construction phase drainage works are proposed on the banks of the River Dargle and drainage from the development is proposed to outfall to the River Dargle and Irish Sea. Therefore, Rockabill to Dalkey Island QI species; Harbour porpoise is considered to be within the Zol of the proposed project. In terms of the QI of reefs in the Rockabill to Dalkey Island SAC, these habitats are located outside the Zol of the

proposed project and direct and indirect impacts are not anticipated to these habitats.

- 11.3.18. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, I can confirm that the only European Site relevant to include for the purposes of screening for the possibility of significant effects is the Rockabill to Dalkey Island SAC (003000).

#### **11.4. Screening Determination**

- 11.4.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 003000 (Rockabill to Dalkey SAC) in view of the sites Conservation Objectives in relation to the Harbour porpoise [1351], and Appropriate Assessment (and submission of a NIS) is therefore required. As noted previously, with regard to the reefs habitat [1170], these are marine based habitats which are not located in the vicinity of the proposed development, with the nearest reef being c. 6.5km from the site. The impact on the reefs habitat has been screened out given the dilution and dispersal available in 6.5km of coastal waters, any potential surface water quality impacts that may occur from small scale construction phase drainage works on the banks of the River Dargle will not lead to likely significant effects upon the reef habitats of the SAC. Similarly, the operational phase drainage (storm water / treated foul water) from the proposed development will not lead to likely significant effects upon the favourable conservation status of 'Reefs' habitat in Rockabill to Dalkey Island SAC given the dilution and dispersal that would occur within the intervening areas of the Irish Sea.

I confirm that the site screened in for appropriate assessment is the site included in the NIS prepared by the project proponent.

The possibility of significant effects on other European sites has been excluded on the basis of scale of the works proposed, separation distance and lack of substantive ecological linkages between the proposed works and European sites.

In reaching the conclusion of the screening assessment, no account was taken of measures intended to avoid or reduce the potentially harmful effects of the project on any European Site.

#### **11.5. The Natura Impact Statement**

11.5.1. The application is accompanied by an NIS, dated July 2020, which examines and assesses the potential adverse effects of the proposed development on European Site of Rockabill to Dalkey Island SAC (003000).

11.5.2. The NIS was informed by the following studies, surveys and consultations:

Desk top study

An examination of aerial photographs and maps

Habitat survey

Bird Survey

Survey for invasive species

Stormwater Impact Assessment Report

Outline Construction Environmental Management Plan

11.5.3. The applicant's NIS was prepared in line with current best practice guidance and provides a description of the development: 591 dwellings, 1 childcare facility, a retail unit, a café and two commercial units; foul sewerage infrastructure to connect to the existing network (to be upgraded) and Shanganagh WasteWater Treatment Plant; storm water system including oil interceptors, silt traps and two attenuation stores designed to attenuate the 100 year storm; discharge pipes to the River Dargle, to be fitted with tidal flaps; outline Construction Environmental Management Plan.

11.5.4. The NIS under Section 6.1.1 identifies and assesses possible adverse effects of the proposed development on the Rockabill to Dalkey Island SAC (003000). Details of mitigation measures are detailed in Section 6.3 of the NIS. In combination effects with other plans and projects on this European site in view of the site's conservation objectives are considered in Section 6.2. Mitigation and monitoring will be managed by the appointed contractor and an Outline Construction Environmental Management Plan (CEMP) has been submitted which incorporates mitigation measures detailed in the EIAR and NIS.

11.5.5. The applicant's NIS concluded:

'The NIS has examined the potential impacts of the proposed project on the integrity of the SAC, alone and in combination with other plans and projects, considering the site's structure, function and conservation objectives. Where potential likely significant effects were identified, mitigation measures have been recommended to assist in offsetting these effects.

Following a comprehensive evaluation of the potential direct, indirect and cumulative impacts on the qualifying interests of the SAC and the implementation of the proposed mitigation measures, it has been concluded by the authors of this report that there will be no residual impacts and the proposed project will not have an adverse effect on the integrity of the Rockabill to Dalkey Island SAC or any other European site.

To confirm this conclusion, the following checklist [of site integrity] taken from DEHLG (2009) has been completed...'.

- 11.5.6. Submission were received from the prescribed bodies of the Development Applications Unit of Department of Housing Local Government and Heritage and observers (see section 11.3.12 of this report above for comments relating to European Sites).
- 11.5.7. Having reviewed the documentation available to me, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European site Rockabill to Dalkey Island SAC (003000), alone or in combination with other plans and projects.

**11.6. Appropriate Assessment of implications of the proposed development**

- 11.6.1. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 11.6.2. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment

of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

- 11.6.3. A description of Roackabill to Dalkey SAC and its Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the NIS and outlined in table 4 above as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

#### Aspects of the Proposed Development

- 11.6.4. The main aspects of the proposed development that could adversely affect the conservation objectives of the European Site assessed include:

Construction related pollution events and/or operation impacts on water quality, via surface water run off.

Construction related impacts during the construction phase via groundwater.

Construction activities and disturbance, displacement, injury and death of mobile aquatic species (harbour porpoise) and impact on habitat quality.

Indirect impacts from discharge of treated foul effluent during operational phase.

#### Rockabill to Dalkey SAC (003000)

- 11.6.5. There is no potential for direct impacts on the Rockabill to Dalkey SAC i.e. no displacement of species, or the permanent removal of habitat supporting qualifying interest and ecological features of the designated site, as the site is not located within or directly adjacent this SAC.
- 11.6.6. Potential indirect impacts on the qualifying interests of the Rockabill to Dalkey SAC have been considered in terms of construction surface water run-off, construction groundwater run-off, operational phase discharge of foul effluent post treatment at Shanganagh Waste Water Treatment Plan, and operational phase surface water discharge to the River Dargle.



- 11.6.7. With regard to the Harbour Porpoise [1351], these are mobile mammals which have been recorded within the coastal waters around Bray Harbour. Porpoise prey on aquatic species which are in turn dependent of good water quality. Proposed works near the River Dargle relate to the installation of the surface water drainage outfall for the proposed development to the river. All other construction activities are remote from the watercourse and there is the physical barrier of the flood defence walls and public promenade separating the site from the watercourse. With regard to surface water run-off as a result of construction phase impacts, there is a risk sediment can enter into the River Dargle. Sediment can affect aquatic species within receiving water bodies. Given the physical barrier of the flood defence walls, promenade, and distance between the proposed works areas and the watercourse, the potential for large volumes of sediment to reach the River Dargle as a result of construction activities is very limited, however, in the absence of mitigation measures, potential impacts to the surface water quality of the River Dargle, which could in turn affect QI species Harbour Porpoise, cannot be entirely ruled out. Mitigation measures are therefore proposed as set out in Section 6.3.1 of the submitted NIS.
- 11.6.8. With regard to ground-water impacts, construction activities have the potential to expose groundwater to contamination by concrete/hydrocarbons/other chemicals. Groundwater is assumed to follow local topography and flow towards the sea and/or the River Dargle. Site investigations (March 2020) indicated local groundwater levels range between 4.98m below ground level (bgl) and 0.87mbgl. Temporary dewatering on portions of the site will likely occur. This will not be discharged to the River Dargle. Significant impacts to groundwater quality or flow during the construction phase are not likely. Any potential impacts on groundwater as a result of construction activities will not likely affect the surface water quality in the River Dargle or the coastal water quality in the Irish Sea. Given the location, nature and scale of the proposed project, potential impacts through groundwater pathways and then onwards via the Irish Sea which could affect the conservation objectives of QI species Harbour porpoise are not considered likely and no mitigation is therefore proposed.
- 11.6.9. With regard to indirect impacts from the discharge of treated effluent during the operational phase, I note wastewater is proposed to be treated at Shanganagh Wastewater Treatment Plan which discharges into the Irish Sea. The Shanganagh

Wastewater Treatment Plan operates under licence from the EPA and has capacity to treat the proposed development. Irish Water has raised no concerns in relation to treatment capacity. No impacts are anticipated on the qualifying interests of Rockabill to Dalkey Island SAC from foul discharge from the operational phase of the proposed development given effluent will be treated at Shanganagh WwTP prior to discharge and given the dilution and dispersal which will occur within the Irish Sea, therefore no mitigation is proposed.

- 11.6.10. With regard to operational impacts from surface water discharge to the River Dargle, impacts to the surface water quality of the River Dargle / Irish Sea is considered to be low, given the dilution and dispersal that would occur within these waterbodies. However, in the absence of mitigation measures potential impacts to the surface water quality of the River Dargle and Irish Sea, which could in turn affect QI species Harbour porpoise, cannot be entirely ruled out. Mitigation measures are therefore proposed as set out in Section 6.3.2 of the submitted NIS.

#### Mitigation

- 11.6.11. A number of construction phase mitigation measures have been proposed to address potential indirect impacts from surface water run-off during construction as follows:

The construction management of the Site will take account of the recommendations of the Construction Industry Research and Information Association (CIRIA) guidelines 'Control of Water Pollution from Construction Sites' and 'Groundwater control - design and practice' and CIRIA 2010 'Environmental Good Practice on Site' to minimise as far as possible the risk of pollution.

Works will follow best practice guidance as outlined in Guidelines on the Protection of Fisheries during Construction Works in and Adjacent to Waters (IFI, 2016).

The existing drainage network, specifically along the existing road, and as required elsewhere across the site, will be suitably protected (via. the use of physical barriers and / or the implementation a Sitespecific water run-off management plan as required).

A response procedure will be put in place to deal with any accidental pollution events. Any spillage of fuels, lubricants or hydraulic oils will be immediately

contained and the contaminated soil removed from the proposed development and properly disposed of in accordance with all relevant waste management legislation: -

- All Site vehicles used will be refuelled in bunded and adequately sealed and covered areas in the construction compound area; - All oil stored on Site for construction vehicles will be kept in a locked and bunded area; - Generators, pumps and similar plant will be placed on drip-trays to prevent contamination; - All Site vehicles used will be refuelled in bunded areas; - All temporary construction fuel tanks will also be located in a suitably bunded area and all tanks will be double skinned. Relevant Material Safety Data Sheets along with oil absorbent materials will be kept on Site in close proximity to any fuel storage tanks or bowzers during proposed Site development works; and, - All fuel / oil deliveries to on-Site oil storage tanks will be supervised, and records will be kept of delivery dates and volumes.

In order to prevent any potential surface water impacts via release of cementitious materials the following measures will be implemented where poured concrete is being used on Site: - The production, transport and placement of all cementitious materials will be strictly planned and supervised. Site batching/production of concrete will not be carried out on Site and therefore these aspects will not pose a risk to the waterbodies present, namely the River Dargle or the Irish Sea; - Shutters will be designed to prevent failure. Grout loss will be prevented from shuttered pours by ensuring that all joints between panels achieve a close fit or that they are sealed; - Any spillages will be cleaned up and disposed of correctly; - Where concrete is to be placed by means of a skip, the opening gate of the delivery chute will be securely fastened to prevent accidental opening; - Where possible, concrete skips, pumps and machine buckets will be prevented from slewing over water when placing concrete; - Mixer washings and excess concrete will not be discharged directly into the drainage network, or any drainage ditches, surface water bodies or exposed groundwater; and, - Surplus concrete will be returned to batch plant after completion of a pour.

No fuels, chemicals, oils or hazardous materials shall be stored adjacent to or within 100m of the River Dargle

- 11.6.12. A number of operational phase mitigation measures have been proposed to address potential indirect impacts from surface water run-off during construction as follows:

The surface water drainage design is compliant with the requirements set out in the Greater Dublin Strategic Drainage Study (GDSDS).

Storm water drainage from the development will employ SuDS features and is proposed to outfall to the River Dargle via controlled flow through 2 no. underground attenuation / holding tanks.

A SuDS management train approach is proposed for the site with the principle of preventing runoff by reducing impermeable areas.

SuDS proposed for the site include: Extensive & Intensive Green Roofs; permeable paving; swales in park areas adjacent to roads; filter drains to rear gardens; modular underground attenuation; flow control devices.

SuDS elements have been designed in accordance with the CIRIA SuDS manual.

SuDS measures will reduce the potential for contaminants, such as silts etc., to impact the River Dargle through the treatment process (swales / attenuation) employed prior to discharge.

- 11.6.13. Overall, I consider that the proposed mitigation measures, are clearly described, and precise, and definitive conclusions can be reached in terms of adverse effects on the integrity of European sites based on the mitigation measures submitted. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short, medium and longer term and the method of implementation will be through a detailed Construction Environmental Management Plan.

#### In-Combination Effects

- 11.6.14. Section 6.2 of the NIS considers the potential for cumulative effects on the SAC arising in combination with other plans or project, including the indicated Masterplan area and a list of five other permitted developments in the area. It is not anticipated that other projects will act in-combination with the proposed development to give rise to cumulative effects on any European sites. Having regard to the scale of developments proposed, distance from the application site and lack of viable pathways, it is considered unlikely that the construction and/or operation of any phase of the proposed development, either alone or in combination, will act in-

combination with the proposed development to give rise to cumulative effects on any European sites.

#### Appropriate Assessment Conclusion

- 11.6.15. The proposed residential development at the Former Bray Golfcourse Lands has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 11.6.16. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European Site No. 003000 (Rockabill to Dalkey SAC). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.
- 11.6.17. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 003000 (Rockabill to Dalkey SAC), or any other European site, in view of the sites Conservation Objectives.
- 11.6.18. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of Rockabill to Dockey SAC.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Rockabill to Dalkey SAC.

## **12.0 Environmental Impact Assessment**

### **12.1. Statutory Provisions**

- 12.1.1. The development provides for 591 residential units comprising 76 houses and 515 apartments of which 53 are duplex units. Four blocks of apartments are proposed, a retail unit, commercial units and a childcare facility. The site, which is 9.37ha in area,

is located within the town of Bray and lies within the administrative areas of both Dun Laoghaire Rathdown (DLR) County Council and Wicklow County Council.

12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

12.1.3. The proposal is on a site area greater than 2 hectares and comprises more than 500 dwelling units. An EIAR has therefore been submitted.

12.1.4. The EIAR is laid out in three volumes. Volume 1 comprises a Non Technical Summary, Volume 2 comprises the EIAR document, and Volume 3 comprises Appendices. Within the EIAR in volume 2, Chapter 1 sets out the introduction and methodology including a list of the competent experts involved in preparing the EIAR. Chapter 2 provides a description of the nature and extent of the proposed development, including a consideration of alternatives. Chapter 13 examines cumulative impacts, including examination of permitted developments. Chapter 14 deals with interaction of significant impact and chapter 15 comprises a schedule of environmental commitments, ie all mitigation and monitoring measures proposed.

12.1.5. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authority, prescribed bodies, appellant, observers and applicant has been set out at Section 7.0 of this report. The main issues raised specific to the EIA can be summarised as follows:

- Water and surface water management
- Biodiversity
- Landscape and Visual Impacts

- Material Assets – Traffic and Transport

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

## **12.2. Likely Significant Direct and Indirect Effects**

- 12.2.1. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 12.2.2. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2001, as amended.
- 12.2.3. This EIA has had regard to the application documentation, including the EIAR, and the observations received, as well as to the assessment of other relevant issues set out in section 10 of this report above. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

## **12.3. Major Accidents/Disasters**

With respect to Article 3(2), chapter 2, section 2.9.6 of the EIAR refers to Major Accidents/Disasters. It is noted that there are no Seveso sites in the area. I note the site is not in an area prone to natural disasters. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that the risk of major accident is very low. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Potential flooding has been addressed in this EIAR (and dealt with further below).

## **12.4. Alternatives**

12.4.1. Chapter 2 of the EIAR addresses the alternatives considered.

12.4.2. The site is zoned for development, therefore the applicant refers to a number of reasonable alternatives considered on the site with respect to the design and layout of the scheme. A summary of the alternatives is provided.

12.4.3. Having regard to the zoning of the site for residential and mixed use development, in addition to open space, I am satisfied that alternative locations and alternative processes are not relevant to the proposal. In my opinion reasonable alternatives have been explored and the information contained in the EIAR with regard to alternatives provides a justification in environmental terms for the chosen scheme and is in accordance with the requirements of the 2014 EIA Directive.

## **12.5. Consultations**

12.5.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

## **12.6. Assessment of the Likely Significant Direct and Indirect Effects**

12.6.1. The likely significant direct and indirect effects of the proposed development on the environment are considered under the headings below which follow the order of the factors as set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and human health
- Biodiversity, with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- Land, soil, water, air and climate
- Material assets, cultural heritage and the landscape
- The interaction between the factors referred to in points (a) to (d).

12.6.2. With respect to cumulative impacts these are set out within Chapter 13 and have been adequately considered.



12.6.3. My assessment is based on the information provided by the applicant, including the EIAR, in addition to the submissions made in the course of the application, as well as my site visit.

## **12.7. Population and Human Health**

12.7.1. Chapter 3 of the EIAR addresses population and human health. The methodology for assessment is described as well as the receiving environment.

12.7.2. Potential impacts are considered during the construction and operational phases under the headings land use and settlement pattern; demographics and local population; economic activity and employment; local services/amenities; human health; and risk of major accidents or disaster.

12.7.3. With regard to human health during the construction phase, a Stage 1 Health Screening assessment has been undertaken, and a risk-based assessment of environmental pathways and associated transport mechanisms using a source-pathway-receptor model for human health assessment. Mitigation measures during the construction phase are detailed, including measures related to noise and vibration. Reference is made to the Construction Environmental Management Plan (CMP).

12.7.4. The development of the site is in accordance with the land use zoning objectives and in accordance with national policies for compact growth and efficient use of brownfield land on a site well served by public transport. The impact in terms of land use during construction is considered to be short term in duration, limited in extent and slight in significance. In EIAR terms these are not significant. The operational phase will see the delivery of much needed housing for the growing population of the immediate area. A significant quantity of open space consisting of recreational and amenity space is also proposed, underpinning healthy communities. The provision of a residential community with supporting ancillary facilities and retail and café facilities as proposed will have a moderate, positive effect of permanent duration on land use and settlement.

12.7.5. Overall no residual impacts are anticipated, with the impact on population and human health considered to be positive (ranging from slight to moderate) and permanent, with additional employment in the area and benefits to the local economy through spin-off activities and also delivery of high-quality housing at a sustainable

level to the local community. It is considered that the provision of onsite facilities, including pedestrian and cyclist facilities, high-quality amenity open space and child care facilities will also result in a positive contribution to the mental health and wellbeing of the residents and local amenity users.

12.7.6. Potential cumulative impacts have been considered. The cumulative impact of the proposed development, along with other permitted and existing developments in the vicinity, will be a further increase in the population of the wider area. This impact is considered to be long term and positive, having regard to the zoning objective for the subject lands, and their strategic location in close proximity to public transport, and the high level of demand for new housing in the area, with supporting active and passive recreational spaces and strong links and pedestrian permeability.

12.7.7. I have considered all of the written submissions made in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

**12.8. Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

12.8.1. Chapter 4 of the EIAR addresses biodiversity. The likely effects, direct and indirect, of the proposed development on species and habitats for which European sites within the zone of influence of the site are designated is considered in Section 11 of this report relating to Appropriate Assessment, which informs the conclusions of this EIA.

12.8.2. The biodiversity chapter details the methodology of the ecological assessment. Site surveys were undertaken on 27<sup>th</sup> February 2020, 16<sup>th</sup> July 2020 and 14<sup>th</sup> August 2020 to evaluate for the presence of and suitability for birds, mammals, amphibians and insect groups such as lepidoptera and hymenoptera. A habitat survey was carried out during July to August 2020. The site visits during both summer and winter during 2020 also assessed the site for its potential to provide roosting or feeding opportunities for bird species associated with SPAs in the wider landscape. Bat surveys were also undertaken in July-August 2020. During July-August 2020 the

hedgerows, trees and treelines within the site were assessed for signs of nesting bird activity. Bird activity was recorded during the course of each site visit.

12.8.3. The site is not located within or adjacent to a European site. The potential for impacts on European sites within the zone of influence (Zol) of the proposed site was considered, with the extent of the zone of influence having regard to the nature, size and location of the project, source-pathway-receptor model, the sensitivities of the ecological receptors and the potential for in-combination impacts. There are 13 no. European sites within the potential Zol of the subject site. An Appropriate Assessment Screening Report and Natura Impact Statement have been submitted with the application, which is assessed under section 11 above. I note that there are no annexed habitats or wetlands within or in the vicinity of the project site and there are no wetlands within the site. There are no watercourses or surface water features within the site connecting directly the site to the River Dargle or the Rathmichael Stream. The site is not included within Bray Harbour OT907 I-WeBS count site. From the winter and summer site visits, there was no evidence that the proposed project site supports field feeding waterbirds. The site does not provide any suitable habitat for offshore bird species designated under European sites. Migratory flight paths were considered and there is no evidence based on the survey work undertaken, which I consider robust, that this issue arises. It is further noted that the site is subject to regular disturbance by walkers with dogs, as I observed upon site inspection, and the applicant states the site experiences high levels of anti-social behaviour which would affect the suitability of the site for birds.

12.8.4. In terms of the receiving environment, the development site, which was a former golf course, consists mainly of former amenity grassland with some bare ground being recolonized by vegetation. Dispersed trees and treelines are present on both the main development site and are stated to 'not represent high conservation habitat'. There is a small area of woodland in the northeast corner of the site with a tree line consisting mainly of cypresses extending east from this area along the northern boundary of the development site adjacent to Woodbrook Glen Park. The cypresses are stated to be in poor condition. A hawthorn dominated hedgerow occurs along the railway embankment in the northeast of the main development site and a patch of furze has re-colonised a small area of the floodplain section of the site previously disturbed by development works. 30% of the woodland area at the northwest corner

of the site and some of the trees in the treeline along its northern boundary are to be retained. The hedgerow along the railway embankment is also to be retained. It is stated that no species of protected flora or fauna were observed on the site. No evidence of third schedule invasive plant species were recorded within the extents of the Site.

### Badgers

12.8.5. Badgers were sighted during ecological surveys south west of the proposed site during August 2020 and these sightings included 1 no. adult badger and 3 no. cubs which would confirm the presence of a maternity/breeding sett as being within the wider area. The Environmental Impact Assessment Report (EIAR) considers these badgers originated from a main badger sett located in the boundary hedgerow of Woodbrook Golf Course 1.5 km to the north, and that the development site is within the territory of the badger social group associated with this sett. However, as per the submission from the Department of Housing Local Government and Heritage, ‘...on the evidence of the time of day and location in which the adult and juvenile badgers were encountered in August 2020 the Department considers it likely that there is a main badger sett located somewhere near the western end of the master plan area, possibly close to or in the grounds of the old Ravenswell national school, and that the badgers associated with this sett are a separate group from the badgers associated with the Woodbrook Golf Course sett. Nevertheless it would be desirable to maintain some connectivity between the territories of the two social groups, which is liable to be cut off by the proposed development. The maintenance of such connectivity could possibly be assisted by providing as much vegetation cover as is feasible in the landscaped ‘Coastal Gardens’ strip which is to be laid out along the eastern railway boundary of the development site. Cover for the movement of badgers and other mammals along this strip could potentially be promoted by replacing some of the wildflower planting planned for this strip with shrubs. As proposed the wildflower planting would seem to be of limited biodiversity value, as the seed mix it is intended to use includes corn field weeds and woodland species such as red campion which are unlikely to persist in this location’. The site is considered to be of Local Importance (Higher Value) for badgers, which are considered to be sensitive ecological receptors. Should the Board be minded to

grant permission, I recommend a condition in relation to this issue, as suggested by the Department.

#### Otter

- 12.8.6. While no otters were recorded during the site surveys, a submission from the Department of Housing Local Government and Heritage states ‘...otter spraint was identified circa 35 m beyond the northern boundary of the development site, at the entrance to a culvert under the railway line at the eastern end of Woodbrook Glen Park which channels the Woodbrook Stream into a pipe under site of the old Bray dump on the seaward side of the railway and out onto the beach. A NPWS staff member found plentiful spraint at this location again on 18/9/2021. Also a trap camera installed in another culvert on the Woodbrook Stream about 500m upstream of this location in July of this year as part of survey work connected to another development recorded otters using it a number of times. It would appear that otters are probably regularly using the culvert under the railway and old dump, or possibly a trail over the railway and across the old dump, to move back and forth from the sea’. The otter is another species afforded strict protection under the Habitats Directive because of its rarity in Europe as whole.
- 12.8.7. The submission from the department recommends ‘...it would be desirable to minimise as far as possible any impacts on the park and culvert area which may arise from the proposed development site including any nocturnal light spillage. To reduce such light spillage the screening effect of the treeline on the development site’s northern boundary should therefore be maintained or preferably reinforced. More trees could be planted to thicken up the treeline than is currently proposed, and possibly some of the Leyland cypresses which it is intended to remove from this treeline for arboricultural reasons could be retained at least until some of the newly planted trees have time to mature...’. I consider this approach reasonable and a condition to this end in terms of a revised landscaping plan is recommended, should the Board be minded to grant permission.

#### Bats and Birds

- 12.8.8. Bat species recorded within the Site are noted to be: Common pipistrelle (*Pipistrellus pipistrellus*), Soprano pipistrelle (*Pipistrellus pygmaeus*) and Leisler’s bat (*Nyctalus leisleri*). Outside of the Site, along the River Dargle a fourth bat species was

recorded; Daubenton's bat (*Myotis daubentonii*). Extensive foraging was recorded within the proposed development area with common pipistrelle and Leisler's bats the most frequently recorded foraging. There are a number of trees which have Low-Medium significance for roosting bats within the proposed development area at Bray and the site is of importance for commuting and foraging bats.

12.8.9. Bird surveys recorded the presence of 10 species on the development site which are considered relatively common species.

12.8.10. The submission from the Department notes that during a visit to the development site in early September a member of the staff of the National Parks and Wildlife Service (NPWS) recorded a male stonechat occurring in the patch of furze on the edge of the floodplain referred to above. The same staff member has observed this species occurring along the section of the development site along the railway embankment several times over the last forty years. The stonechat is a species characteristically associated with scrub especially furze, and particularly occurs in coastal areas.

12.8.11. The submission from the department notes that the clearance of the great majority of the existing vegetation from the development site will lead to the loss of nesting sites for all the bird species breeding in this area, but such losses of nesting habitat can only be considered of minor significance from a nature conservation perspective. It is considered that in the longer term the planned landscape planting of trees and shrubs across the development site should in any case mitigate the impact of this habitat loss by providing substitute nesting sites suitable for most of the bird species currently using the proposed development site. It is recommended by the department that a condition be included in any grant of permission for the inclusion of furze within the landscape planting of the 'Coastal Gardens' to support the presence of stonechat in this section of the development site into the future.

12.8.12. The site is of Local Importance (Higher Value) for bats and breeding birds and these species are considered to be sensitive ecological receptors.

#### Mitigation

12.8.13. Section 4.4 of the EIAR identifies potential impacts from the proposed development and Section 4.5 contains Mitigation Measures.

- 12.8.14. Construction phase mitigation measures include, inter alia, construction techniques related to land, soils and geology, and water as referenced in the relevant chapters; implementation of tree protection measures as identified in the Tree Survey Report and Landscaping Planting Plan; if construction lighting is required during the bat activity period (dusk April to September), lighting shall be directed away from all hedgerow/ treeline habitats to be retained; installation of a large number of bat boxes to act as summer and winter roosting sites. The landscape design also includes for the planting of native tree species which will in time provide for further potential roosting site habitat. All trees noted to have potential as bat roosting habitat will be surveyed by a bat specialist prior to Site clearance works and if roosts are found the appointed bat specialist will develop a method statement for the tree / roost clearance in consultation with the planning authority and NPWS and will seek the necessary derogation licence from local NPWS staff (if required); removal of nesting habitat will be carried out outside the breeding bird season from 1st March to 31st August inclusive. Section 4.5.1.5 addresses badgers and includes specific construction phase mitigation. In addition, the site will be resurveyed for badger activity and the presence of setts by a suitably qualified ecologist (appointed by the Contractor) prior to the commencement of the development. The creation of an ecological buffer zone along the northern and eastern boundaries of the Site will allow for connectivity of habitats and the continuance of the site to be used as a badger foraging area. The buffer zone allows for connectivity between Rathmichael woodlands/stream and the railway underpass which leads to scrub habitat and Woodbrook golf club lands which are known to be badger foraging territory. During the construction phase no works will be undertaken during night time hours and as such the construction activities will not take place whilst local badgers are foraging. During the construction phase an access track will be in situ along the northern and eastern boundaries which will allow for continued connectivity from Rathmichael woodlands to the railway underpass and to the important foraging habitats to the east of the railway line.
- 12.8.15. Operational phase mitigation measures include, inter alia, specific lighting design; SUDS measures to reduce surface water run-off rates; planted landscape buffer zone to the north and east to ensure the area provides for bat flight lines and badger foraging connectivity to/from the ecological features to the north

(Rathmichael woodlands), east (scrub habitat and golf club lands) and south (River Dargle and remainder of former Bray Golf Club lands); and installation of numerous bird nesting boxes, bat roosting boxes and insect boxes.

12.8.16. Monitoring is to take place prior to construction by the Contractor appointed Bat Specialist in relation to the trees and pre-construction/site clearance, terrestrial mammal surveys will be undertaken by the Contractor appointed suitably qualified ecologist to assess if badgers, or any other protected mammals, have established refugia (e.g. a badger sett) within the site. The EIAR states that once operational the implementation of the landscape plan and compensatory habitat such as wildflower meadows and additional planting should be inspected by the Contractor within one year post planting; and the management company will be responsible for monitoring of the landscaping plan and refuge habitats.

12.8.17. Cumulative impacts are fully considered in chapter 13 (section 13.3.2), with consideration given to granted and planned developments. No significant effects on designated sites, habitats, species or aquatic ecology are anticipated.

12.8.18. Residual ecological impacts are not anticipated and provided ecological mitigation measures and monitoring are implemented correctly no cumulative impacts are expected.

#### Conclusion – Biodiversity

12.8.19. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts on biodiversity would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity.

#### Land, Soil, Water, Air and Climate

##### **12.9. Land, Soils and Geology**

12.9.1. Chapter 9 of the EIAR addresses land, soils and geology. The site is described and the methodology set out.

12.9.2. The topography of the proposed development site generally slopes from north to south, with a with a localised high ridge running in an east-west direction across the



centre of the site. The site fall from c. 11.8m OD in the northwest, to c. 2.1m OD to the southeast.

- 12.9.3. Geology maps and soil maps are provided. A Ground Investigation Survey was undertaken, comprising trial pits, soakaway testing, boreholes, groundwater monitoring wells and geotechnical and environmental laboratory testing.
- 12.9.4. The soil is identified as made ground with alluvium (associated with the River Dargle) present in the southern portion of the site.
- 12.9.5. No evidence of soil contamination of potential concern in terms of environmental risk was encountered. The report notes a single reported observation of a hydrocarbon odour in a thin layer of damp native sand at WS04A location, to the south of the site, however, no evidence of laterally or vertically extensive hydrocarbon contamination in this area, based on the soils analytical results, was identified. One contaminant of potential concern (naturally occurring Barium) with regards to human health risk has been identified within the soils and made ground beneath the site at two locations within the footprint of the housing and duplex units, and these soils are not suitable for reuse within the gardens of the housing and duplex units (where consumption of homegrown produce could occur).
- 12.9.6. There is a historic landfill located immediately to the east and down gradient of the site, known as the former Bray Municipal Landfill. This landfill has been the subject of a phased environmental risk assessment process. A site investigation, Tier 2 Environmental Risk Assessment (Fehily Timoney & Co., 2016) and Remediation Option Appraisal (Fehily Timoney & Co., 2017) have been carried out on the historic landfill Site to fully assess the current ground conditions and potential risk that the former landfill could pose to human health and environmental receptors in the vicinity. Given the low permeability of the underlying natural clayey silt, the risk to deeper groundwater and sea water receptor was considered low. No exceedances of contaminants were noted in the landfill. The Tier 2 assessment identified the historic landfill Site as having a low risk classification (Class C) in accordance with the risk based methodology adopted from the EPAs CoP: Environmental Risk Assessment for Unregulated Waste Disposal Sites (2007). No risk to the application site was identified.

12.9.7. The following construction phase works are identified as having a potential impact on soils and geology:

Stripping of topsoil may result in exposure of the underlying subsoil layers to the effects of weather and construction traffic and may result in subsoil erosion and generation of sediment laden runoff;

Soils beneath the proposed development may become unnecessarily compacted by machinery during construction;

Topsoil and subsoil may become rutted and deterioration of the topsoil layer and any exposed subsoil layers may result in erosion and generation of sediment laden runoff;

Dust generation can also occur during extended dry weather periods as a result of construction traffic; and,

Soils (and bedrock via piling) may be at risk of becoming contaminated through site construction activity; in particular the risk of spillages and leakage of any fuel oils and paint. Potential human health risks to construction workers could also occur associated with any such spillages and leakage.

Temporary onsite groundwater and gas monitoring wells could provide a conduit for potential contamination of soils and bedrock through Site construction activity; in particular the risk of spillages and leakage of any fuel oils and paint.

12.9.8. It is noted that all excavations are anticipated to encounter sandy silt / clay and/or gravel, with localised areas of made ground in the south and east. No rock breaking will be required. Piling to a maximum depth of 25m is anticipated and all piles are anticipated to encounter sandy silt / clay (with localised areas of made ground) and/or gravel and potentially peat and bedrock.

12.9.9. The following operational phase impacts are identified:

Native topsoil and subsoil (upper 1m) at two localised hotspots (TP205, TP208) within the proposed footprint of the housing and duplex units is unsuitable for reuse in residential gardens within this area (due to a potential human health risk via ingestion of marginally elevated levels of naturally occurring Barium within the soil);

Soils beneath the proposed footprint of apartment blocks B and C, in the southern and western portion of the site, could pose a potential ground gas issue due to

elevated levels of carbon dioxide within localised pockets of made ground (reused soil) in this area, and have been deemed to be 'at low risk', with respect to ground gases.

12.9.10. Mitigation measures are described for the construction phase in Section 9.5 of Chapter 9, which are in the main related to best practice construction methods. Mitigation measures during construction are also referenced in Chapter 10, Water. It is stated that negative impacts during construction phase will be short term only in duration and localised. Gas protection measures for apartment blocks B and C will be incorporated into the Detailed Design Stage of the proposed development; and will be installed by experienced and trained specialists and will be subject to inspection and certification, during the Construction Stage. It is also planned to remove the two localised soil hotspots of naturally occurring Barium from the proposed footprints of the housing and duplex units and associated gardens. No operational phase mitigation is identified.

12.9.11. No significant adverse impacts on the soils and geology of the lands are envisaged. The impact on land take is likely to have a slight negative permanent impact on the environment of the area; however, this change is consistent with existing and emerging trends. No significant long-term impacts on soil, geology or hydrogeology, resulting from the proposed development are predicted. No cumulative impacts associated with the proposed development with respect to land, soils or geology are anticipated during the Construction or Operational Phases.

12.9.12. I have considered all of the written submissions made in relation to land and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

## 12.10. **Water**

12.10.1. Water is addressed within Chapter 10 of the EIAR. This chapter describes the surface water and groundwater regime, and it addresses the potential impact of the proposed development on hydrology (i.e. surface water) and hydrogeology (i.e.

groundwater) together with the mitigation measures that will be employed to eliminate or reduce any potential impacts.

12.10.2. There are no streams or surface water features on the site. The Rathmicheal Stream is located immediately north of the proposed development and the River Dargle is immediately south of the application south, both of which flow in an easterly direction to discharge to the Irish Sea. Bray harbour is located ca. 0.5km south east of the site and the proposed development is located c. 90m from the Irish Sea, with the intervening railway line located between the site and the coast. Both streams are classified by the EPA as having 'good' surface water quality status and are 'not at risk' of failing to meet the relevant WFD objectives for these surface waterbodies by 2027 (EPA, 2021). The Irish Sea has been assigned 'High' coastal water quality status for the 2013 to 2018 monitoring period (EPA, 2021), and is 'not at risk' of failing to meet the relevant WFD objectives for this coastal waterbody by 2027 (EPA, 2021). The water quality status of Bray South Promenade during the 2019 summer bathing water season was reported to be 'excellent'. Water samples were taken upstream and downstream of the River Dargle and no contaminants of concerns were found. The groundwater vulnerability rating is classified as low. Based on the geological setting of the receiving environment, there is no potential for karst features (such as fractures or epikarst) beneath the site, therefore the potential for karst connectivity, and groundwater flow via. conduit pathways is not a concern. Groundwater flowing beneath the proposed development is likely to discharge to the River Dargle in the south, and to the Irish Sea, in the east / south east. The WFD water quality status for the Wicklow groundwater body is classified as 'Good' for the 2013 to 2018 monitoring period (EPA, 2021).

12.10.3. A Flood Risk Assessment has been carried out, which is supported by a hydraulic model of the River Dargle to assess the fluvial and coastal/tidal flood risk (which are the primary flood risks identified) based on the proposed scheme design and including the wider masterplan/zoned MU lands at this location. The model indicates that there is no 'highly vulnerable' development proposed within the delineated Flood Zone 'B'. The access road and Market Square area are proposed to be located in Flood Zone 'B', such land uses are deemed to be 'less vulnerable' development. As a mitigating design measure for the proposed 'less vulnerable' access road and Market Square being located within Flood Zone 'B' (where some

flood water will be displaced) compensatory storage has been provided within the proposed open space (park) area of the proposed development during the fluvial 1 in 100 year and 1 in 1000 year event along with the tidal 1 in 200 year and 1 in 1000 year flood events. This open space area is 'water compatible' in line with the 'The Planning System and Flood Risk Management' guidelines and therefore may flood in such low frequency storm events. In accordance with the Justification Test undertaken, it can be concluded that there is no residual risk of flooding to the proposed Coastal Quarter Development except for that which is planned (during the fluvial 1 in 100 year and 1 in 1000 year event along with the tidal 1 in 200 year and 1 in 1000 year flood events) within the south of the subject site in the open space area, and the proposed development does not pose an increased flood risk to surrounding people or property outside of the applicant's landholding.

12.10.4. A Technical Note is included in Appendix 10.4 of the EIAR titled 'Harbour Point Materplan Development and Co. Dublin Flood Risk Assessment', the stated purpose of which is to assess the potential cumulative impacts to and from the wider masterplan area. The following conclusions are noted:

A Stage 3 Flood Risk Assessment has been carried out for the subject site and the proposed layout ensures that none of the 'highly vulnerable' elements of the Development are located within Flood Zone 'A' or Flood Zone 'B'. The proposed development will not increase the flood risk from the River Dargle to surrounding people or any property outside of the applicant's landholding.

While the Masterplan concept design for the Lands outside of the subject site has considered the relevant information, any future application and development of these Masterplan Lands will be subject to a stand-alone Stage 3 Flood Risk Assessment including a Justification Test in consultation with Wicklow County Council.

The proposed development of the sustainable transport bridge as outlined in the lodged Wicklow County Council Part 8 Planning Application (Planning Ref. PRR 21/869) has been considered within the Masterplan lands from a flood risk perspective and it is not expected to adversely impact on the Coastal Quarter Development, specifically in terms of altering the risk to 'highly vulnerable' developments.

The remaining portion of the Masterplan lands will be progressed in tandem with the stand alone Stage 3 FRA noted above to ensure that there will be no increased risk of flooding to the Coastal Quarter Development. The design will also ensure that there will be no increased flood risk to any other existing adjacent developments or properties. The building positions and their levels above ground will be such that they will facilitate an overland flow route, and will not impact on the function of the emergency storm outlets on the northern flood defence wall.

12.10.5. Potential cumulative impacts have been considered and are also identified also in Chapter 13, Cumulative Impacts. All approved applications within the immediate environs were considered and are listed. No cumulative impacts associated with the proposed development with respect to water (i.e. hydrology and hydrogeology) are anticipated. As noted above, the wider masterplan area/entire MU landbank at this location (which is not a permitted scheme) has been included in the assessment and while it is considered that no significant cumulative impacts are likely to arise, it is noted that the development of that area will be subject to its own further Flood Risk Assessment.

12.10.6. In terms of design elements and flood risk, the FFL of the units is a minimum of 6.10m OD. The River Dargle Flood Defence Scheme will also ensure no flood risk to the people, property and the urban environment. The storm water drainage system, SuDs measures, watermain design and foul drainage proposals are described.

12.10.7. In terms of surface water flows / groundwater resources, no significant impact is anticipated during construction/operation. In terms of potential water quality impacts, potential impacts during construction are detailed, including accidental spillage of oils or leaks onsite, contaminants from cement, Inadequate soil / storm water management during the construction phase, and contamination arising during temporary dewatering. Potential impacts during the operational phase, include risk from occasional fuel / oil leaks along the access roads and paved areas, risk of contamination in unlikely event of traffic accident/oil spill/fire water arising from property fire, and risk through routine site maintenance activity. Such operational risks are considered low given low volumes likely to be involved, localised nature of such events, low permeability soil in terms of groundwater impacts, use of

attenuation tanks to slow down water flow from the site, and also likely dilution effects in the River Dargle.

12.10.8. Mitigation measures are described in Section 10.5 and include standard construction practice methodologies which will be incorporated within/implemented through the preparation of a Construction Environmental Management Plan (CEMP) Operational mitigation measures include those highlighted in Chapter 9 (soils) relating to the design/construction of the development, specifically the installation of an appropriate ground gas membrane beneath apartment blocks B and C, and the removal of two localised soil hotspots from the proposed footprints of the housing and duplex units and associated gardens; and a maintenance programme for the proposed surface water drainage system, as recommended in the Stormwater Impact Assessment Report. The impact following mitigation is considered to be not significant.

12.10.9. I have considered all of the written submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water.

## **12.11. Air Quality and Climate**

12.11.1. Air and quality climate is addressed in Chapter 6 of the EIAR. The methodology and receiving environment are addressed.

12.11.2. Impacts have been considered in terms of air quality, human health, and climate. During the construction stage the main source of air quality impacts is indicated to arise from dust generating construction activities, which will arise from demolition, earthworks, construction and haulage activities, in addition to air quality and climate impacts from construction traffic emissions. Dust emissions from the construction phase of the proposed development also have the potential to impact human health through the release of PM10 and PM2.5 emissions. During the operational phase, the main air quality considerations relate to the level of traffic and traffic-related air emissions. It is noted that the Flood Risk Assessment has considered impact of climate change.

- 12.11.3. Sensitive receptors identified include two residential properties to the west within 0-20m of the proposed development site and two existing schools within 20m of the proposed development.
- 12.11.4. Mitigation measures during construction are detailed including primarily a 'Dust Management Plan', which is outlined in appendix 6.2 of the submitted EIAR. Construction stage traffic and embodied energy of construction materials are expected to be the dominant source of greenhouse gas emissions, with construction vehicles, generators etc., giving rise to some CO<sub>2</sub> and N<sub>2</sub>O emissions. However, due to short-term nature of these works, the impact on climate will not be significant and mitigation includes measures such as non-idling of engines of construction traffic and minimising waste on site. When dust minimisation measures are implemented, residual fugitive emissions of dust would be short term, localised, negative and imperceptible at nearby receptors; the impact on climate is deemed to be neutral, short term and imperceptible; the impact on human health is likely to be negative, short term, localised and imperceptible.
- 12.11.5. Given the predicted level of traffic increase during operational phase, the impacts to air quality and climate are not anticipated to be significant. Measures to minimise the impact on climate have been incorporated into the design of the scheme, as indicated in the energy statement submitted.
- 12.11.6. Cumulative impacts are considered (see Chapter 13, section 13.3.4) and no significant impacts are predicted.
- 12.11.7. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

## **12.12. Noise and Vibration**

- 12.12.1. Chapter 7 of the EIAR evaluates noise and vibration associated with the construction and operational phases of the development.



- 12.12.2. Baseline noise monitoring was undertaken across the development and an environmental noise survey of the existing environment was undertaken. Noise sensitive receptors identified include Corke Abbey residences and Colaiste Raithin School. An Inward Noise Assessment was undertaken in accordance with ProPG guidance.
- 12.12.3. Potential noise impacts during construction include noise from construction equipment and vehicles, and from vibration, with piling is to occur at a minimum distance of 70m from the nearby receptors. During the operational phase, consideration is given to noise arising from additional traffic, including consideration of permitted developments in the wider area.
- 12.12.4. As per the Noise Risk Assessment undertaken, the site is characterised as of Negligible to Medium Risk and an acoustic design strategy is required to mitigate and minimise noise impact. Consideration has been given to noise from rail pass-by's and potential for noise from the proposed Bray sustainable transport bridge (ref PRR 21/869) which when operational may hold public transport such as buses and the LUAS.
- 12.12.5. Figure 7.10 identifies facades where the noise levels are higher and where mitigation in the form of enhanced glazing and ventilation will be required. These affected facades face on to either the rail track to the east, or the proposed future Bray sustainable transport bridge to the south. In terms of external noise level, the balconies to Blocks A and B will exceed minimum noise levels for external areas, however, as recommended in the ProPG guidance, this can be off set through access to a relatively quiet, protected, publicly accessible, external amenity space, with the proposed communal areas within the blocks modelled to be in accordance with noise parameters.
- 12.12.6. Mitigation measures are detailed for construction in Section 7.7 and includes best practice control measures, such as selection of quiet plant, noise control at source, screening with standard construction site hoarding, and phasing/timing of construction works. Construction noise impacts are anticipated to be short term, negligible and slight to moderate. Vibration impacts are not considered significant given distance to nearest noise sensitive receptors. Construction noise is considered to be negative and of slight to moderate significance, but temporary in nature.

- 12.12.7. At operational stage, noise from additional traffic is predicted to be neutral, imperceptible and permanent in duration. Noise from mechanical and electrical plant is considered to be negative, not significant and permanent. Inward noise impact is predicted to be neutral, not significant and permanent.
- 12.12.8. Noise and vibration monitoring will be undertaken during the construction phase.
- 12.12.9. There are no significant negative cumulative noise impacts as a result of the operation of the development, when considering adjoining developments permitted and adjoining zoned lands. In terms of construction noise, there may be cumulative impacts should the development to the south and the public transport bridge be under construction at the same time. Contractors should schedule work in a co-operative effort to limit the duration and magnitude of potential cumulative impacts on nearby sensitive receptors. I note that such works would be temporary in nature and mitigation measures as part of a Construction Management Plan, coordinated through the planning authority would mitigate potential impacts.
- 12.12.10. I have considered all of the written submissions made in relation to noise. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise.

### **Material Assets, Cultural Heritage and the Landscape**

#### **12.13. Material Assets - Traffic and Transport**

- 12.13.1. Chapter 8 details the Traffic and Transport assessment.
- 12.13.2. The Board is referred to section 10.11 of my report above in respect of impacts on traffic and transport.
- 12.13.3. In terms of the scope of the assessment, the greater Harbour Point Masterplan Development has been included in the traffic assessment. The application site relates to a portion of that area, with an indicated phase 2 area comprising the remaining landbank and MU zoned lands at this location. While future public transport initiatives/projects are acknowledged in the assessment including

the Luas Green Line Extension to Bray; public transport bridge by Wicklow County Council; and BusConnects – Core Bus Corridor: Corridor 13 Bray to UCD/Dublin City Centre; it is stated that the development is not dependent on the delivery of these projects.

12.13.4. The proposed development does not impact the route of the proposed Luas extension, which traverses a portion of the southern boundary of the site, to cross the River Dargle via a new public transport bridge, which is currently being proposed by Wicklow County Council under (Part 8 – Bray Sustainable Transport Bridge, Planning Reference PRR 21/869; ABP ref ) and adjoins a southern portion of the site and crosses the river approx. 140m to the south. While observers raise concern in relation to the proposed development being dependent on this bridge, I note from the TTA submitted, the development is not dependent on the delivery of that bridge and the development layout does not hinder that potential delivery of that bridge. This is discussed elsewhere in my report under section 10 above.

12.13.5. Additional cycle/pedestrian network improvements are planned for the area, including improvements on Castle Street Bridge to be provided by WCC; improvements for pedestrians/cyclists along R761 as part of Bus Connects; and East Coast Greenway Scheme Greater Dublin Cycle Network route N5 (section of which complete as part of River Dargle Boardwalk and flood relief scheme); and completion of Strand Road Cycle Scheme at Marine Terrace under the NTA Stimulus Programme 2020.

12.13.6. The access streets serving the site have raised cyclepaths on both sites and connected footpaths. The R761 has on road cycle paths on both sites and footpaths on both sides. There is an existing railway underpass to the southeast of the site, allowing for pedestrian/cyclist only access back to the promenade/town centre as well as to the north beach and it is stated that a License Agreement exists between Irish Rail and Wicklow County Council, allowing Wicklow County Council to continue to operate the underpass for pedestrian and cycle access on a 24 hour basis, along with installing appropriate and approved vehicle barriers on both approaches. No works are proposed to the underpass but it will be maintained to facilitate connectivity and act as an alternative route to the River Walk which provides for connectivity to Bray Town Centre.

- 12.13.7. Both the Bray Dart Station and the nearest bus stops on Dublin road are within 800m from the development site (approx. 800m to the DART and approx. 690m to the bus), which equates to a walking time of 10 minutes. There are seven bus services in existence along the R761 with frequencies ranging from 10-15-20-30 mins. I consider the overall public transport provision in the area to be of a high frequency and capacity and connections proposed to existing services for pedestrians/cyclists is welcomed.
- 12.13.8. Baseline traffic data was gathered and junction surveys were carried out. The junctions wherein the increase in traffic does not exceed 5% are identified as follows: Junction 1: Wilford Roundabout; Junction 6: Junction of R761 Castle Street, The Maltings & Seapoint Road; Junction 7: Junction of R761 Castle Street, Herbert Road & Quinsborough Road; and, Junction 8: Junction of R761 Main Street, Killarney Road & Vevay Road. A further junction assessment was carried out for Junctions 2, 3, 4 and 5 (all along the R761) given traffic to and from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists, or the location is sensitive (as per TII guidance). These assessments also included an additional sensitivity test based on assumption that the existing Southern Access junction onto Castle Street (Junction 5) was to be closed to vehicular traffic and a further sensitivity analysis was undertaken to assess the traffic impact if the working from home mode share was adjusted from the estimated 20% to a lower value of 10%. It is noted in the assessment Junction 2 is operating above its theoretical capacity of 90% indicating that the main capacity issues associated with the junction relates to the background traffic on the network and not the traffic generated by the proposed development. The Opening Year + 5 “Do Something” scenario indicates that the maximum degree of saturation increases on the arms is 5% above that of the existing traffic scenario. It is considered in the TTA that given the urban nature of this junction, it is not unexpected that this junction is at or slightly over capacity at certain periods of the day. The increase in degree of saturation is therefore considered to represent a marginal impact on the junction due to the proposed development.
- 12.13.9. Overall, the assessment of the junctions in addition to assessment of additional assumptions concluded that the impact of the development on the existing road network will be modest and well within the carrying capacity of existing infrastructure, inclusive of the existing public transport network.

- 12.13.10. Construction phase impacts have been considered with regard to likely numbers of heavy goods vehicles and volume of materials to be transported. It is concluded that the impacts will be short term slight negative.
- 12.13.11. Section 8.7 of the EIAR sets out mitigation measures proposed for both the construction and operational phases. It is stated that mitigation measures related to construction activities will be implemented in accordance with a Construction Traffic Management, which will include management of HGV movements so as not to occur during the background peak traffic period, particularly the AM school drop off time. Impacts are considered to be short term and slight negative due to construction traffic.
- 12.13.12. In terms of operational impacts, the scheme has been designed to support active modes of transport of walking/cycling and the layout supports planned improvements to the public transport network. I further note a Mobility Management Plan is proposed to promote sustainable modes of transport and a car share scheme is proposed. I consider the increase of traffic at the junctions indicated to be within reason and the street network has capacity to accommodate the projected increase in traffic. Furthermore a shift toward active modes of transport (walking/cycling), particularly at school times, in conjunction with the mobility management plan will ensure that the proposed development can be accommodated with the proposed network.
- 12.13.13. Interactions are considered and it is stated the effects of these will be mitigated through the implementation of measures within the CMP and other sections of the EIAR.
- 12.13.14. I have considered all of the written submissions made in relation to traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport.

#### **12.14. Material Assets – Built Services**

- 12.14.1. Chapter 12 of the EIAR evaluates the impacts on material assets of built services required to facilitate the development.

### Surface Water Drainage

- 12.14.2. Storm water infrastructure in the area of the site is located along the street/path to the neighbouring schools development. The drainage design also includes for underground attenuation systems and flow controls to slow and manage storm water drainage before final outfall to the River Dargle which will ensure there is protection to the natural flow regimes of the watercourse.
- 12.14.3. Chapter 10 of the EIAR is cross referenced in relation to surface water infrastructure impacts and mitigation.
- 12.14.4. The proposed surface water will be attenuated on site and discharged to the River Dargle at greenfield run off rates. SUDS is incorporated within the design.

### Foul Sewers

- 12.14.5. An existing major foul water network is located along the northern, eastern and southern boundary of the site and traverses east-west along the path serving the school development.
- 12.14.6. Irish water has confirmed that the existing foul network has sufficient capacity to meet the combined wastewater discharge volumes of ca. 271,310l/d from the proposed development, once operational. Irish Water in their submission has also indicated that completion of the Old Connaught Local Network Reinforcement Project (LNRP) which is on Irish Waters current Capital Investment Plan is required to facilitate the development. It is stated that the estimated time of completion of this project to Q2 2023 (subject to change). The applicant states that the design is coordinated with the proposed LNRP route and IW infrastructure (given IW previous comment that the initial design was not aligned with the route). Given the proposed project is listed within the Capital Investment Plan the timelines appear relatively secure, nonetheless, the development will be subject to a connection agreement with Irish Water.

### Water Supply

- 12.14.7. There is no existing supply to the site. Proposed watermain services (100-225mm diameter pipeline), including firewater requirements for the development will be provided.

12.14.8. Irish Water has indicated significant upgrades are required to facilitate connection to the water network, these include but are not limited to the replacement of approx. 450m of existing 6inch watermain to 200mm ID main. In addition to this approx. 190m of new 200mm ID main is required to connect the existing network to the development. The applicant will be required to fund these network upgrades as part of a connection agreement.

#### ESB

12.14.9. There are existing underground ESB services along the northern, eastern and southern Site boundaries as well as through the Site within vicinity of the access path to the schools development / proposed access route to the proposed development.

#### Gas

12.14.10. There are existing gas utilities within the south eastern section of the site.

#### Telecommunications

12.14.11. There is existing EIR along the southern and eastern boundaries of the site.

#### Street Lighting

12.14.12. There is existing street lighting along the access path to the school development with street light also leading to the underpass. An Outdoor Lighting Report has been undertaken and has been developed in consultation with bat and biodiversity specialists to minimise disruption and disturbance to local bat populations.

#### Potential Impacts

12.14.13. The potential impacts of development for the construction and operational phases are identified. Overall, impact on infrastructure during the construction phase of the proposed development is considered to be unlikely and should impacts occur would be temporary and moderate adverse. No significant adverse, long-term impacts are predicted to occur during the operational phase.

12.14.14. Construction phase mitigation includes implementation of a project-specific Detailed Construction Environmental Management Plan (CEMP) and includes inter alia the following measures:

Phasing of the diverted foul water network is to be fully coordinated with Irish Water.

Foul drainage discharge from the construction compounds will be removed off site to an appropriately licensed facility for disposal until a connection to the public foul drainage network has been established.

All newly installed utilities/ services will be assessed, tested and certified as required prior to being fully commissioned.

Connections to the existing and proposed foul networks will be coordinated with the relevant utility provider. All works associated with the existing and proposed utilities for the proposed development will be carried out in strict accordance with the guidelines of the relevant stakeholders (specifically ESB, eir and Irish Water), and any additional site specific requirements.

A copy of all available existing, and as built utility plans will be maintained on Site during the construction of the proposed development. The underground power lines and foul water mains within the existing Irish Water services, located onsite will be clearly marked and all Site personnel will be made aware of the known location of any onsite underground or over ground services during the construction phase.

Street Lighting will be implemented in accordance with the MEP Engineering Report & Design Statement prepared by Atkins (2021).

12.14.15. Cumulative impacts have been considered and no significant impacts have been identified.

12.14.16. I have considered all of the written submissions made in relation to Material Assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

#### **12.15. Material Assets - Waste Management**

12.15.1. Chapter 12 of the EIAR addresses waste management. Chapter 9 Land, Soils and Geology of the EIAR is cross referenced.

12.15.2. A site-specific Construction and Demolition Waste Management Plan (C&D WMP) has been prepared as mitigation to deal with waste generation during the



construction phase of the project and a separate Operational Waste Management Plan (OWMP) has also been prepared for the operational phase of the development.

12.15.3. Residual impacts, taking account of mitigation measures, are predicted to be short-term and imperceptible during the construction phase; and long-term and imperceptible during the operational phase.

12.15.4. I have considered all of the written submissions made in relation to Material Assets – Waste Management. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on waste management.

#### **12.16. Cultural Heritage**

12.16.1. Chapter 11 of the EIAR addresses cultural heritage.

12.16.2. A desktop study and field inspection were carried out as part of the assessment of the site. A study radius of 500m was utilised in the assessment. The SMR/RMP for Counties Dublin and Wicklow list a total of nine recorded archaeological sites within the study area and one of these, Linear Earthwork (DU026-124----/ WI004-005----), extends into the proposed development (Table 11-5 and Figure 11-1). The alignment of this earthwork also reflects the county boundary between Dun Laoghaire Rathdown and Wicklow County Councils and present as a 0.8m high bank with some mature deciduous tree growth along its margins. The linear embankment also forms the boundary between the townlands of Ravenswell and Cork Great which is considered in the cultural heritage assessment. There are no designated built heritage structures (Protected Structures or National Inventory Architectural Heritage) within, or in immediate proximity to, the application site.

12.16.3. During archaeological testing of the site, ten linear test trenches, totalling 650m in length, were excavated across the 7.3-hectare subject site. Manual investigation of the recorded linear earthwork (WI005-005--- / DU026-124----) which extends across the centre of the site in an east to west direction was undertaken and it is noted that the western section of this feature is now occupied by the schools campus constructed in 2016. Investigations revealed this recorded linear earthwork to comprise a late 19th or early 20th century landscape feature and not a section of

the 'Pale' ditch as had been previously postulated. It is stated that the evidence garnered from this, and other recent programmes of archaeological investigation, categorically reveals that the linear earthwork is not an archaeological monument and, thus, should not be included in the next revision of the RMP.

12.16.4. Although no archaeological features were uncovered within the development site as a result of the geophysical survey and subsequent testing programme, given the scale of the development and its coastal proximity, it is recommended that, should development proceed, all topsoil stripping works undertaken within the subject site be subject to archaeological monitoring. Furthermore, due to its cultural significance, it is recommended that the linear earthwork, referred to locally as the 'Nun's Walk', be incorporated in some regard into the design of the proposed development. This could take the form of a placename, boundary marker and/or as feature within an amenity area.

12.16.5. In terms of construction mitigation it is noted that the Blocks A and B are arranged to allow for the linear feature to be marked.

12.16.6. Given the absence of any identified archaeological remains within the proposed development in combination with an assessment of other developments in the area in terms of archaeology, it is concluded that the proposed development will not result in any significant cumulative impacts on the known archaeological resource.

12.16.7. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts on archaeology, architectural or cultural heritage.

## **12.17. Landscape and Visual**

12.17.1. Chapter 5 of the EIAR addresses Landscape and Visual impacts of the proposed development on the existing landscape character and visual amenity of the area. The EIAR notes the policy context and existing visual character. The applicant

has submitted 3D images and photomontages of the development from various viewpoints. I refer the Board to section 10.6 of this report also.

12.17.2. The site is within the urban area of Bray. In terms of landscape classification, the Wicklow County Development Plan, Section 4.5.6 Urban Areas, states 'All locations designated as 'settlements' in the County settlement hierarchy (i.e. areas falling within Levels 1-6) are considered 'urban' areas ... In terms of landscape classification, these settlements have already been deemed suitable for development (of the type allowed by the settlement strategy and the development standards of this plan) and the impacts on the wider landscape of such development has already been deemed acceptable. Therefore it will not be necessary for developments in urban areas to have regard to the surrounding landscape classification or to carry out landscape or visual impact assessment'. The site is located in an area with a rating of "low vulnerability" (See WCDP Figure 1.1 Wicklow's Landscape Classification Map 2010-2016).

12.17.3. I note the submitted EIAR assesses the visual impact from the policy base of the Wicklow County Development Plan, and while the policy base of the Dun Laoghaire Rathdown County Development Plan is referenced, it is not particularly considered in terms of the site's location in a Coastal Fringe Zone (area within 500m of the coast), where it is the aim to protect the particular character of such areas along the coastline (referenced in Appendix 9 Building Heights Strategy).

12.17.4. While I consider the policy basis in the EIAR in terms of the DLR County development plan is not considered in a significant way, I consider the overall methodology acceptable in terms of the approach to assessing the environment and the visual impact analysis, which is based on existing site characteristics and context, as illustrated in the submitted photomontages. I also note that information has been submitted elsewhere in the documentation which assesses the policy of the Dun Laoghaire Rathdown Development Plan. I am satisfied I have sufficient information before me within the application and all its associated documents to assess the potential visual impact of the proposed development.

12.17.5. The submitted assessment states '...whilst [the site] is in a prominent position adjacent to Bray Beach and the Dargle River, it is not in a prime position from which to view the beach or river, as there are industrial/commercial buildings around the

harbour and along Harbour Road'. It is considered that the presence of the adjacent existing development to the west, proximity of housing to the north and south and the railway to the east, reduces the susceptibility of the site to change resulting from residential development, with the susceptibility considered Low and sensitivity also assessed as Low.

12.17.6. The predicted visual impact during the construction phase is examined in terms of landscape impact and visual impact, with photomontages submitted from twenty-four viewpoints. During construction, equipment and works will impact visibility of the site. I note the following views which are commented upon in terms of visual impact during construction:

Residents to the northwest in Corke Abbey (Viewpoints 11, 12): the higher construction plant such as cranes and scaffolding will be visible, with this impact rated as being of moderate or major significance.

There will be no visual impact on residents in Cork Great (Viewpoints 9 and 10) given the woodland between the proposed development and the housing. The impacts will be negligible and of negligible significance.

The impacts on the staff and pupils of the schools along with road users and pedestrians bordering the schools will be high and significance will be moderate or major but short-term.

There will be views of the construction activities in the middle distance on Strand Road as it crosses the River Dargle (Viewpoint 7). It is stated that visibility will be greatest as the height of Blocks B and C progresses. The impact will be low and the significance negligible.

The harbour buildings and railway are prominent features from the bridge. Construction activities on the site are in the middle distance and whilst visible and prominent on the skyline will not be incongruous given the context.

Distance and screening from the Bridge over the River Dargle on Main Street (Viewpoint 3), will render the impact and significance of the construction as negligible or minor.

Pedestrians on the coastal path adjacent to the proposed development, on the coast side of the railway line, (Viewpoint 8) are at a similar ground level to the site with the

railway line embankment preventing direct access. Construction activities on the site will be prominent from this location, especially the upper floors of Blocks A and B. The magnitude is high, however the significance is minor or moderate because this is not the part of Bray seafront where residents and visitors are likely to swim and relax but more used by walkers who will experience the construction activities for a short element of their walk.

The proposed development is ca. 400m away from the end of Bray Harbour wall (Viewpoint 6). Visibility of construction activities will be greatest as the taller elements of Blocks A and B progress. The impact will be medium and of moderate significance.

12.17.7. During the Operation Phase, the submitted assessment considers that in relation to landscape change, 'it is acknowledged that there would initially be a high degree of change, with new built elements making a substantial alteration to the existing open landscape setting but it is considered the proposals would not introduce elements significantly at odds with the local prevailing character. Over a period of time, as the planting matures the residential housing will be set within a high quality semi-natural environment incorporating new native tree and hedgerow planting, wildflower meadow and shrub blocks which would assist with increasing the biodiversity within the Site'.

12.17.8. In terms of visual amenity, I note in particular the views assessed. The impacts and significance are stated to be similar for the operation of the proposed development, as for the construction phase, with the greatest impacts on those road users and staff and pupils bordering the Ravenswell School Development, residents at the north eastern end of Corke Abbey, walkers along the coastal path adjacent to the proposed development and pedestrians on the Harbour Wall as they look back towards Bray. It is stated that the proposed development will not create any additional overshadowing of the adjacent existing dwellings at Corke Abbey due to the presence of significant existing mature trees along the boundary in this location, which will also mitigate the visual impact. The most significant impact of the proposed development is stated to be from the Harbour Wall (Viewpoint 6) and from the coast path (Viewpoint 8) adjacent to the site, which have been assessed as Medium level of impact and Moderate significance for the Harbour Wall and High level of impact and Moderate or Major significance for the coast path.

12.17.9. Mitigation measures listed under Section 5.6 relate to design elements of the layout as proposed and also landscape design elements. Cumulative impacts in terms of planned developments are considered. This is addressed also in Chapter 13, Cumulative Impacts, which examines permitted developments in the area, developments proposed within the masterplan, and proposed Part 8 public transport bridge. No significant negative cumulative impacts are predicted.

12.17.10. I refer the Board to my concerns expressed above, with regards to the design, scale and massing of Blocks A and B. While I am satisfied with the remainder of the development, in this regard, I have serious concerns with regards the impacts that Blocks A and B, if permitted, would have given this coastal location. I would concur with the opinion of the DLRCC CE Report when it is stated that these concerns would require a redesign as opposed to minor changes by condition (albeit conditions are suggested in the event that the Board considers granting permission). These concerns do not relate to the height per se, with which I am satisfied, but instead a consideration of the totality of form, scale, mass and design including material finishes. My concern in this regard relates to its aesthetics. My concern is not from an environmental perspective but from a planning perspective. I consider that Blocks A and B fall short from a planning perspective, don't meet the design standards espoused in the Wicklow County Development Plan and that the site has the potential to deliver a building of much higher architectural quality. Therefore, while not acceptable from a planning perspective, it would, in my mind, be acceptable in terms of EIA. It could be argued, that as proposed, Block A and Block B could be considered to have a permanent neutral or some may argue adverse impact on landscape and visual at this location. While the blocks as proposed may in my opinion have neutral or negative impacts on views by virtue of its design expression, I am generally satisfied that structures of appropriate design quality would not negatively impinge on such views.

12.17.11. I have considered all of the written submissions made in relation to landscape and visual impact, including observer submissions and the Opinion of the Planning Authorities as expressed in their Chief Executive's Reports. I am generally satisfied that Landscape and Visual has been appropriately addressed in terms of the EIA.

## 12.18. Significant Interactions

12.18.1. Chapter 14 of the EIAR comprises a matrix of significant interactions between each of the disciplines. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

12.18.2. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

### 12.19. Reasoned Conclusion on the Significant Effects

12.19.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to **population** and **material assets** due to the increase in housing stock in the town that would result from the development.
- **Traffic and Transport:** Potential for moderate short-term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of design and implementation of the Car Parking and Mobility Management Strategy for the development.
- Neutral or negative impacts on **Landscape and Visual** from proposed Block A and Block B due to its elevational design and materiality which will not be avoided, mitigated or otherwise addressed by means of condition; impacts from the remainder of the development will be positive and permanent due to provision of a quality streetscape; provision of quality, public open space and high quality landscaping proposals.

- **Biodiversity Impacts:** Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, protection of trees to be retained, landscaping, measures in relation to bats and birds, and the use of bat and bird boxes. The proposed development would not have a significant negative impact on biodiversity.
- Potential effects arising from **noise** and **vibration** during construction which will be mitigated by appropriate management measures.
- Potential impacts on **water**, which are proposed to be mitigated by construction management measures and implementation of SUDS measures. The information submitted in the EIAR and the other documentation submitted with the application regarding the proposed measures to mitigate this impact is sufficient to demonstrate that such measures are likely to be successful in protecting the proposed development from flooding and comply with the justification test for residential development within flood risk zones A and B, as set down in the 2009 Guidelines on the Planning System on Flood Risk Management. The EIAR also adequately addresses the potential for indirect effect on water quality due to the possible release of sediments or other pollutants to water during the construction of the development, therefore it is unlikely that negative effects on water quality would occur.
- Potential impacts on **air quality and climate**, which will be mitigated by measures set out in the EIAR, including a dust management plan including a monitoring programme.
- The proposed development is not likely to have significant adverse effects on **human health or cultural heritage**.

Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed and I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.



## **13.0 Recommendation**

13.1. Having regard to the above assessment, I recommend a SPLIT DECISION I recommend that permission be REFUSED for proposed Block A and B, for the reasons and consideration marked (1) below and I recommend that permission be GRANTED for the remainder of the development, as proposed, in accordance with the said plans and particulars based on the reasons and considerations marked (2) under and subject to the conditions set out below.

## **14.0 Reasons and Considerations (1)**

1. Having regard to the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing Planning and Local Government in December 2018, it is considered that the proposed Blocks A and B by reason of their design, scale, bulk and mass would be visually obtrusive and would seriously detract from the visual amenities and character of the area when viewed from the east, and in combination with the poor design in terms of façade treatment and architectural expression would not constitute an adequate design response to the context and opportunity of this coastal urban site, and would not, therefore, be in accordance with the criteria set out under section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018 and would not be in accordance with the proper planning and sustainable development of the area.

## **15.0 Reasons and Considerations (2)**

Having regard to the following:

- (a) The policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Bray Municipal District Local Area Plan 2018-2024,
- (b) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All – A New Housing Plan for Ireland, 2021,

- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) The Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) The nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) The pattern of existing and permitted development in the area,
- (l) The planning history of the site and within the area,
- (m) The submissions and observations received,
- (n) The report of the Chief Executive of Dun Laoghaire Rathdown County Council, and
- (o) The report of the Chief Executive of Wicklow County Council,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 16.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 28<sup>th</sup> August 2021 by RPS Group Ltd. on behalf of Shankill Property Investments Ltd.

### **Proposed Development:**

The site falls within the administrative areas of Dún Laoghaire-Rathdown County Council and Wicklow County Council.

The proposed development will consist of the change of use of lands from former golf course use to residential and other uses consisting of 591 no. residential units and c.1,336 sq.m of other uses comprising of a retail unit, 2 no. commercial units, a childcare facility and a café.

The development will comprise 76 no. houses consisting of 13 no. 2-bedroom 2-storey terraced houses, 51 no. 3-bedroom 2-storey terraced houses and 12 no. 4-bedroom 3-storey terraced houses; 26 no. 2-bedroom own door ground floor apartments with 26 no. 3-bedroom own door duplex apartments over resulting in 52 no. units with balconies and gardens within 26 no. 3-storey terraced buildings; and; 4 no. apartment blocks ranging in height from 3 to 8-storeys and containing 463 no. units consisting of 171 no 1-bedroom units, 288 no. 2-bedroom units and 4 no. 3-bedroom units. Each apartment block which will comprise of:

- Block A ranging in height from 4 to 8-storeys and containing 166 no. units consisting of: 49 no. 1-bedroom apartments and 117 no. 2-bedroom apartments all with balconies or terraces; residential amenity spaces including a sky lounge on the

eighth storey; external communal open space on a central podium; car and bicycle parking spaces; ancillary plant; waste storage and substations/switch rooms at undercroft level.

- Block B ranging in height from 4 to 8-storeys and containing 191 no. units consisting of: 57 no. 1-bedroom apartments and 134 no 2-bedroom apartments, all with balconies or terraces; residential amenity spaces including a sky lounge on the eighth storey; external communal open space on a central podium; car and bicycle parking spaces; 2 no. commercial units (c.64 sq.m and c.201 sq.m); ancillary plant; waste storage and substations/switch rooms at undercroft and lower ground levels.
- Block C ranging in height from 3 to 6-storeys and containing 80 no. units: 45 no. 1-bedroom apartments, 31 no. 2-bedroom apartments and 4 no. 2-bedroom duplex units, all with balconies or terraces; c.195 sq.m café, c.249 sq.m retail unit and c.627 sq.m childcare facility at ground level with ancillary outdoor space, with associated external space; residential amenity space; external communal open space on a central podium; car and bicycle parking spaces; ancillary plant; waste storage and substation/switch rooms at undercroft level.
- Block D is a 4-storey building and contains 26 no. units: 20 no. 1-bedroom apartments and 6 no. 2-bedroom apartments with balconies; car and bicycle parking spaces, ancillary plant, waste storage and substation/switch rooms at undercroft level.

The proposed development will include:

- 551 no. ancillary car parking spaces comprising 474 no. resident spaces and 32 no. visitor spaces, 35 no. staff spaces; 9 no. set-down spaces and 1 no. car club space; 45 no. of these spaces will be served by e-charging points; 291 no. of these spaces will be at undercroft level with the remaining 260 no. at surface, on street or on curtilage.
- 14 no. resident motorcycle spaces at undercroft level.
- 1,184 no. bicycle parking spaces comprising, 890 no. resident apartment spaces at undercroft level and 256 no. visitor spaces (of which 136 no. at undercroft level and 120 no. at surface level) associated with Blocks A, B, C and D, 30 no. staff spaces associated with non-residential uses and 8 no. cargo bicycle spaces. In addition,

bicycle parking for the house and duplex units is provided on curtilage as secure bike stores to the front of the units which will accommodate 2 no. bicycles per unit equating to 256 no. bicycle storage spaces.

The proposed development will also include all associated plant; refuse storage areas; communal open space; public open space; playgrounds; multi-use games area; associated internal roads and drainage arrangements; facilitating utility connections, facilitating linkages with adjoining sites; landscaping; public lighting; construction compounds; and all site development works.

## **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) The policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022 and Bray Municipal District Local Area Plan 2018-2024,
- (b) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016, and Housing for All – A New Housing Plan for Ireland, 2021,
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,

- (d) The Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) The nature, scale and design of the proposed development,
- (j) The availability in the area of a range of social, community and transport infrastructure,
- (k) The pattern of existing and permitted development in the area,
- (l) The planning history of the site and within the area,
- (m) The submissions and observations received,
- (n) The report of the Chief Executive of Dun Laoghaire Rathdown County Council,
- (o) The report of the Chief Executive of Wicklow County Council, and
- (p) The report of the Inspector.

### **Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than on European Site No. 003000 (Rockabill to Dalkey SAC), which is a European site for which there is a likelihood of significant effects.

## **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on European Site No. 003000 (Rockabill to Dalkey SAC), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The reports and submissions received from observers and prescribed bodies;
- (d) The Inspector's report;

The Board agreed with the summary of the results of consultations and information received in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's Report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

### **Reasoned Conclusions on the Significant Effects:**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and



complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation embedded in the project design and delivery for the construction stage. In addition, plans relating to Waste Management and Traffic Management are also proposed. The main significant effects, both positive and negative are:

- Significant direct positive effects with regard to **population** and **material assets** due to the increase in housing stock in the town that would result from the development.
- **Traffic and Transport:** Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of design and implementation of the Car Parking and Mobility Management Strategy for the development.
- Neutral or negative impacts on **Landscape and Visual** from proposed Block A and Block B due to its elevational design and materiality which will not be avoided, mitigated or otherwise addressed by means of condition; impacts from the remainder of the development will be positive and permanent due to provision of a quality streetscape; provision of quality, public open space and high quality landscaping proposals.
- **Biodiversity Impacts:** Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, protection of trees to be retained, landscaping, measures in relation to bats and birds, and the use of bat and bird boxes. The proposed development would not have a significant negative impact on biodiversity.
- Potential effects arising from **noise** and **vibration** during construction which will be mitigated by appropriate management measures.

- Potential impacts on **water**, which are proposed to be mitigated by construction management measures and implementation of SUDS measures. The information submitted in the EIAR and the other documentation submitted with the application regarding the proposed measures to mitigate this impact is sufficient to demonstrate that such measures are likely to be successful in protecting the proposed development from flooding and comply with the justification test for residential development within flood risk zones A and B, as set down in the 2009 Guidelines on the Planning System on Flood Risk Management. The EIAR also adequately addresses the potential for indirect effect on water quality due to the possible release of sediments or other pollutants to water during the construction of the development, therefore it is unlikely that negative effects on water quality would occur.
- Potential impacts on **air quality and climate**, which will be mitigated by measures set out in the EIAR, including a dust management plan including a monitoring programme.
- The proposed development is not likely to have significant adverse effects on **human health or cultural heritage**.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 17.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Mitigation and monitoring measures outlined in the plans and particulars submitted with this application, including in the Environmental Impact Assessment Report, as set out in Chapter 15 of the EIAR 'Schedule of Environmental Commitments', and in the Natura Impact Statement, as set out in Chapter 6 'Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>A suitably qualified ecologist shall be retained by the developer to oversee the site works and construction of the proposed development and the implementation of mitigation and all monitoring measures relating to ecology as set out in the Natura Impact Statement, the EIAR, and the outline Construction Environmental Management Plan. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.</p>

	<b>Reason:</b> In the interest of nature conservation and the protection of the environment.
4.	<p>Prior to commencement of any works on site, revised details shall be submitted with regard to the following:</p> <ul style="list-style-type: none"> <li>(a) Privacy screens between balconies of the apartments.</li> <li>(b) Privacy screens, including height and materials, to the roof terraces on Block D.</li> <li>(c) Full details of proposed green roofs.</li> <li>(d) Balconies on the western side of Block C shall be redesigned so that they do not overhang the public footpath adjoining the building. All balconies affected shall be redesigned in accordance with the relevant standards of the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020.</li> <li>(e) A revised site layout plan indicating a 1.5m privacy strip to all ground floor apartments, in accordance with the advice at section 3.41 of the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Planning and Local Government, 2020.</li> <li>(f) Car parking spaces at 'The Orchard' car park shall be omitted and in its place an area of open space shall be delivered, with design and boundary details to be agreed, and access maintained for maintenance vehicles servicing the wastewater infrastructure.</li> <li>(g) Revised plans and particulars in relation to boundary treatments, including details in relation to northern boundary and retention of trees/planting at this location in addition to protection of water conveyance routes at this location. The proposed 2.4m high block wall along the eastern boundary to the eastern open space adjoining the railway line shall be omitted and in its place proposals for a revised boundary treatment of a high quality and permeable finish shall be submitted to the relevant planning</li> </ul>

	<p>authorities for written agreement. Details in relation to a construction methodology shall be submitted to ensure retention of northeastern hedgerow and additional planting along the entire boundary.</p> <p>(h) The north-south path along the eastern boundary of the site shall be redesigned as a shared footpath and cycleway, with a minimum width of 3m, and details submitted in relation to the tie-in with the street to the south at the railway underpass and connection to the two pedestrian access points in the northern boundary.</p> <p>(i) Revised pedestrian route through the open space to the front of Block C to support a direct and safe route for pedestrians/cyclists travelling from the west to the railway underpass to the east.</p> <p>(j) The area identified for use as 'Phase 3 site compound' shall not be utilised as a construction compound or utilised for construction equipment, machinery or materials at any stage during the construction works.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
5.	<p>The developer shall provide the following to the relevant planning authority for its written agreement prior to the commencement of any clearance or development works on site:</p> <p>(a) Modified proposals for landscaping to incorporate increased planting of semi-mature trees to thicken up and improve the screening capacity of the tree line on the northern boundary of the development site to minimise light spillage from the proposed</p>

	<p>development and increased planting of shrub species, in particular furze in the 'Coastal Gardens' adjacent to the railway to provide cover for the movement of mammals including badgers through this area and habitat suitable for the stonechat.</p> <p>(b) During the construction phase, the developer shall adhere to the 'Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes', published by the National Roads Authority in 2006. In particular, there shall be no blasting or pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of such an active sett during the breeding season.</p> <p>(c) A bat conservation plan to survey existing bat roosts identified in two oak trees near the old Bray Golf Club clubhouse, and measures to avoid injury to bats during site works. If a bat roost is to be removed on site, a licence from the National Parks and Wildlife Service to derogate from the Habitats Directive to destroy the bat roost is required.</p> <p>(d) Details of the locations and designs of bat boxes and bat tubes to be installed in the proposed development.</p> <p>(e) Details of a lighting scheme for the proposed development which shall be designed in accordance with guidance contained in Institution of Lighting Professionals (ILP). (2018), Guidance Note 08/18: Bats and artificial lighting in the UK, and signed off on by a bat specialist before submission to the planning authority for its written agreement.</p> <p>(f) Any clearance of vegetation from the development site shall only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.</p> <p><b>Reason:</b> To provide for the conservation of species of fauna protected under the Habitats Directive (92/43/EEC) and the Wildlife Acts (1976 to</p>
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	2018) and to provide for the conservation of bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC).
6.	<p>Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the relevant planning authority that a childcare facility is not needed (at this time).</p> <p><b>Reason:</b> To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.</p>
7.	<p>The carrying out of the development shall be phased and, before any part of the development commences, (or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing), a development programme, including inter alia a detailed comprehensive site layout, showing all proposed phases, shall be submitted to and agreed in writing with Wicklow County Council planning authority.</p> <p><b>Reason:</b> In the interests of orderly development and the proper planning and sustainable development of the area.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes, including pavement finishes and bicycle stands, shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. The render finish to external elevations of Block C and Block D shall be replaced with an alternative durable, high quality material/finish.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
9.	<p>Details of all external shopfronts, lighting, signage and internal security shuttering shall be as submitted to, and agreed in writing with, the relevant planning authority prior to-occupation of the commercial/retail units. No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning</p>

	<p>permission.</p> <p><b>Reason:</b> In the interest of the amenities of the area/visual amenity.</p>
10.	<p>Details of the proposed signage to the childcare facility to be submitted prior to occupation for the written agreement of the planning authority.</p> <p>The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of the development and the wider community on a first come first served basis.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
11.	<p>All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
12.	<p>No additional development shall take place above roof parapet level of the apartment buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.</p>
13.	<p>Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. Thereafter, all such names and numbering shall be</p>



	<p>provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
14.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the relevant planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p><b>Reason:</b> In the interest of public safety and 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.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
16.	<p>(a) Details of the bicycle parking space location, layout, access to the undercroft parking, storage arrangement for bicycles, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p>(b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.</p> <p><b>Reason:</b> To ensure that adequate bicycle parking provision is available to serve the proposed development, and in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.</p>
17.	<p>Revised drawings and details demonstrating that all items raised in the submitted Stage 1 Quality Audit (dated June 2021) have been adequately addressed shall be submitted for the written agreement of the relevant planning authority prior to the commencement of development.</p>

	<p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
18.	<p>A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out at the Developers expense in accordance with the Design Manual for Urban Roads &amp; Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent audit team(s) shall be approved in writing by the relevant planning authority and all measures recommended by the Auditor shall be undertaken unless the relevant planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the relevant planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
19.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, vehicular entrances and undercroft car park shall be in accordance with the detailed construction standards of the relevant planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In this regard the following shall be submitted for the written agreement of the relevant planning authority prior to the commencement of development:</p> <ul style="list-style-type: none"> <li>(a) Details in relation to the design of the street connecting into the junction with the railway underpass and tie-ins to the path along the eastern boundary north of the underpass.</li> <li>(b) Two additional car sharing spaces shall be reserved for communal car sharing use on the southern portion of the application site.</li> </ul>

	<p>(c) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, with the exception of the car share spaces, unless the subject of a separate grant of planning permission.</p> <p>(d) Prior to the occupation of the development, a Car and Cycle Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the relevant planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car park spaces shall be continually managed.</p> <p>(e) Provision for cyclists shall comply with latest National Cycle Manual and Design Manual for Urban Roads Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended.</p> <p>(f) A design solution for the proposed pedestrian connections at the northern boundary of the site linking into Corke Abbey Valley Park shall be submitted for the written agreement of DLRCC planning department prior to the commencement of development. These cycle/pedestrian connections shall connect into existing paths in Corke Abbey Valley Park and shall be delivered prior to the occupation of the development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
20.	<p>A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for</p>

	<p>all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
21.	<p>Prior to the opening or occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
22.	<p>Drainage arrangements, including the attenuation and disposal of surface water, including where it relates to the DART underpass, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the relevant planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>

23.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
24.	<p>A revised comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> <li>(a) Additional planting of semi-mature trees along the northern boundary of the site.</li> <li>(b) Increased planting of shrub species and furze in the 'Coastal Gardens' adjacent to the railway and review of wildflowers proposed at this location.</li> <li>(c) Details of all proposed finishes at Market Square and revised pedestrian route through Market Square to support a direct route for pedestrians/cyclists travelling from the west to the railway underpass to the east.</li> <li>(d) Detail planting plan for proposed open space to the southeast, which shall incorporate a grasscrete/gravel path of sufficient width to support the alignment of the emergency access route through this space.</li> <li>(e) Boundary treatment and planting plan at the proposed open space to the southeast shall facilitate the improvement of the existing pedestrian/cyclepath along the boundary at this location, including option of increasing the width of the existing path, where required by the planning authority.</li> <li>(f) Details in relation to access route from MUGA to the boundary with the school site to ensure design enables access for all.</li> <li>(g) Details in relation to the interface of site services and trees to be retained.</li> <li>(h) Details in relation to public furniture/benches;</li> </ul>

	<p>(i) Details in relation to layout and design of play facilities and equipment;</p> <p>(j) Proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;</p> <p>(k) Details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of amenity, ecology and sustainable development.</p>
25.	<p>a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees and hedgerows which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of</p>

	<p>site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) proposed to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site, unless by prior agreement with a specialist arborist.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity.</p>
26.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>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.</p>

	<p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> 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>
27.	<p>The linear earthwork (identified as Recorded Monument WI004-005 linear earthwork and DU026-124 linear earthwork), referred to locally as the 'Nun's Walk', shall be incorporated in some regard into the design of the proposed development from the western to the eastern boundary. Details of any interpretation and/or presentation of this historic feature within the development shall be provided and agreed in advance with the relevant planning authority in consultation with the National Monuments Service in advance of any site development works.</p> <p><b>Reason:</b> To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
28.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site to be retained and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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><b>Reason:</b> To secure the protection of the trees on the site.</p>



29.	<p>A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
30.	<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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
31.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the relevant Planning Authority prior to commencement of development. This CEMP shall incorporate the following details:</p>

	<p>(a) measures set out in the NIS, EIAR, Outline CEMP and Construction Management Plan supporting this application to avoid any pollution through surface water runoff or accidental discharges during the construction of the proposed development reaching the River Dargle and the coastal waters in the vicinity of Bray Harbour.</p> <p>(b) intended construction practice for the development</p> <p>(c) location of all construction compounds with no compound or construction equipment permitted to be placed on lands within Flood Zone A or Flood Zone B;</p> <p>(d) the railway underpass link for pedestrian and cycle use shall be open for the use of the public during the construction phase. The CEMP shall detail how this will be achieved.</p> <p>(e) a detailed traffic management plan;</p> <p>(f) hours of working;</p> <p>(g) noise management measures and</p> <p>(h) off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
32.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
33.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and</p>

	<p>communal areas shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
34.	<p>Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
35.	<p>Prior to commencement of development, the developer 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><b>Reason:</b> 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>

36.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, 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><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
37.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Una O'Neill  
Senior Planning Inspector

26<sup>th</sup> November 2021