



An
Bord
Pleanála

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

Inspector's Report ABP-311190-21

Strategic Housing Development

244 no. Build to Rent apartments and associated site works.

Location

Site at Cross Avenue, Blackrock, Co. Dublin. (www.crossavenueshd.ie)

Planning Authority

Dun Laoghaire Rathdown County Council

Applicant

1 Players Land Limited

Prescribed Bodies

1. Inland Fisheries Ireland
2. Development Applications Unit -
Department of Housing, Local
Government and Heritage
3. Irish Water

Observer(s)

1. Lorraine Tobin
2. Tony and Joy Hurst
3. Brian and Caroline Kealy
4. Patrick and Margaret Lavelle
5. Michael Philip Fry
6. James McHugh
7. Richard Tobin
8. Jonathan Tierney
9. St. Margarets Residents Association (Sarah Duffy)
10. Mary Kennedy
11. The Board of Management of Booterstown National School
12. Turlough Mullen
13. Stephen Woulfe Flanagan
14. John and Mary Broughan
15. Andrew Doyle
16. The Select Vestry of Booterstown & Carysfort Parish

Date of Site Inspection

22nd October 2021

Inspector

Máire Daly

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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 subject site has a stated area of c. 1.214 ha net (1.5441ha gross which includes sections of the Cross Avenue roadway) and is located on the northern side of Cross Avenue, c. 120m north west of the junction with Mount Merrion Avenue and 0.7km southwest of Blackrock Village. Dublin City Centre is c. 7.5km from the site and the site is c. 3.2km from Dun Laoghaire Town Centre.
- 2.2. The site principally comprises land that was formerly part of Blackrock College and has three existing two storey structures located on it, a large residential property in the south western corner called 'Tower Green' which has its own separate access onto Cross Avenue, and 'Clareville' which is comprised of two connected buildings – all of which are vacant and proposed to be demolished as part of the proposed development. The northern and eastern boundary is enclosed by an access road which connects Cross Avenue to the main campus of Blackrock College. The main Blackrock College campus is located to the north of the subject site. This road also currently provides access to the northern area of the subject site. The site is bound by mature trees, predominantly Lime, Sycamore, Monterey Cypresses and Horse Chestnuts along its southern and eastern boundaries. The trees located on the eastern boundary form part of a mature treeline which runs along the access avenue to Blackrock College.
- 2.3. The properties that surround the site, along the northern and southern side of Cross Avenue are predominantly residential and educational in use, with larger residential properties on generous plots. As well as Blackrock College, which is located to the site's north, the Dominican College Sion Hill, is located to the site's east and Booterstown National School is located on the southern side of Cross Avenue, immediately opposite the site. Two commercial properties are located to the southeast of the site on the corner at the junction between Cross Avenue and Mount Merrion Avenue. Buildings in this area are generally 2 to 4 storey in height. Within

the wider context of the site, Blackrock College and Clinic, increase the general height, with buildings of up to 7 storeys. There are a number of Protected Structures located on the Blackrock College campus and also on Cross Avenue, including St. Philip and S.t James Church, which is located to the site's direct south.

3.0 Proposed Strategic Housing Development

3.1. The proposed development provides for the following:

- The demolition of the existing buildings on site, Tower Green (c. 295sqm) and Clareville (c.698sqm), along with the associated outbuildings and the existing wall along the southern boundary.
- Construction of a 'Build to Rent' (BTR) apartment development consisting of 3 no. blocks ranging in height up to 9 storeys (and basement) with 244 no. apartments proposed comprising 18 no. studios, 122 no. 1 -beds, 100 no. 2-beds & 4 no. 3-beds. The 3 blocks are comprised of the following:
 - Block A – 1 storey rising to 5 storey
 - Block B – 7 storey rising to 8 storey
 - Block C – 9 storey
- All residential units provided with associated private balconies/terraces to the north/south/east/west elevations.
- Resident Support Facilities & Resident Services & Amenities (total floor area c.733.4 sq.m) including lobby and café, concierge, management, co-working area, meeting areas, hire hub, multipurpose areas, relaxation/ sitting area, parcel area, pet wash, fitness area, and residents lounge/ private dining.
- Provision of 71 no. car parking spaces in the basement and one set down area at surface level, 479 no. cycle parking spaces and 10 no. motorcycle spaces. Vehicular/pedestrian/cyclist access from Cross Avenue.
- All associated site development works, open spaces, roof gardens, landscaping, boundary treatments, plant areas, waste management areas, cycle parking areas, and services provision (including ESB substations).

3.2. Development Parameter Summary

<u>Parameter</u>	<u>Site Proposal</u>
No. of apartments	244 units comprising: <ul style="list-style-type: none"> - 18 no. studios (7%) - 122 no. 1 bed units (50%) - 100 no. 2 bed units (41%) - 4 no. 3 bed units (2%)
Site Area	1.2140ha net and 1.5441ha gross.
Density	201 units/ha
Creche	None proposed
Building Heights	Range from 1 to 9 storeys
No. with dual aspect	56% dual aspect
Car Parking	71 No. car parking spaces including: - 3 no. disabled parking spaces and 13 no. Go Car spaces. Equating to 0.29 car spaces per unit.
Motorcycle Parking	10 no. cycle parking spaces.
Bicycle Parking	479 no. bicycle spaces
Part V	25 apartments for 25 year lease – 2 no. studios, 13 no. one-bedroom and 10 no. two bedroom apartments.
Open Space	Public Open Space: c. 7,416.97 sqm (61% of site area at ground level) Communal Open Space: c. 1523.58 sqm
Communal facilities	Lobby + Café (c. 79.5 sqm) Concierge (c. 38.6 sqm) Management (c. 51.8 sqm) Co-working (c. 61.3 sqm) Meeting / Leasing / Hire Hub (c.70.1 sqm) Multipurpose (c. 39.8 sqm) Relax / Sitting Area (c. 57.6 sqm)

	Parcel Locker (c. 70.6 sqm) Pet Wash (c. 12.4 sqm) Fitness Area (c. 108.1 sqm) Wc / Change (c. 20.6 sqm) Multipurpose Studio (c. 56.8 sqm) Residents Lounge /Private Dining (c. 66.2 sqm)
Vehicular Access	Access off Cross Avenue

Unit Mix				
Apartment Type	Studio	1 bed	2 bed	3 bed
No. of apartments	18	122	100	4
As % of total	7.4%	50%	41%	1.6%

3.3. Documentation Submitted

3.3.1. In addition to the drawings, application form and notices, the application was accompanied by, inter alia, the following reports and documentation:

- Planning Report including;
 - Statement of Consistency with Planning Policy
 - Response to An Bord Pleanála Opinion
 - Material Contravention Statement
- Creche Assessment
- Schedule of Accommodation
- Site Specific Flood Risk Assessment
- Engineering Planning Report
- Traffic and Transportation Assessment
- Mobility Management Plan

- Environmental Impact Assessment (EIA) Screening Report
- Appropriate Assessment (AA) Screening Report & Natura Impact Statement (NIS)
- Ecological Impact Assessment (EclA)
- Statement of accordance with article 299B (1)(b)(ii)(II)(C)
- Housing Quality Assessment
- Design Statement
- DMURS Compliance Statement
- Quality Audit (Stage 1)
- Car Parking Management Plan
- Stage 1 Stormwater Audit
- Irish Water – Statement of Design Acceptance
- Pedestrian Comfort CFD Analysis
- Daylight Report
- Sunlight Report
- Public Lighting Report and Drawings
- Sustainability & Energy Report
- NZEB Compliance and DEAP Assessment Report
- Utility Report
- Environmental Noise Survey
- Operational Waste and Recycling Management Plan
- Outline Construction Environmental Management Plan (CEMP)
- Building Life Cycle Report
- Local Context Justification Report & Amenity & Site Management Plan
- Landscape Design Rationale
- Landscape Masterplan

- Outline Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Architectural Heritage Impact Assessment (AHIA)
- Archaeology Assessment
- Tree Assessment and Drawings
- Japanese Knotweed Management Plan
- Three Cornered Leek Management Plan
- Townscape and Visual Impact Assessment
- Photomontages
- CGI Views

4.0 Planning History

4.1. Subject site:

4.1.1. No recent planning history specifically relevant to the current site.

4.2. Surrounding Sites:

Adjoining site to north and east – Blackrock College and Willow Park Junior School:

- P.A. Ref. No. D07A/0674 – Permission granted in November 2007 for the demolition of existing two storey classroom buildings and their replacement with a two-storey classroom block of 3700sqm, associated landscaping, lighting, drainage and revised car parking. Willow Park has protected structures in its curtilage.
- P.A. Ref. No. D06A/1610 – Permission granted in March 2007 for the alteration to the steps at the front entrance to Castledawson House (a protected structure). The development consisted of the removal of part of the entrance steps and guarding, the building of a new flight of stairs and the re-use of existing stone caps and lamp standards.
- P.A. Ref. No. D06A/0198 – Permission granted in May 2006 for material alteration to the existing permission for a new senior school. Decision to grant

permission Reg. Reference D01A/0972, An Bord Pleanála (ABP) Ref. PL06D 129507. The development consisted of the change of the south elevation facing onto Sion Hill Convent, from stone cladding to rendered blockwork and the removal of the boiler flue adjacent to Sion Hill.

4.3. Other nearby sites on Cross Avenue;

- ABP Ref. 304913-19 (P.A. ref: D19A/0292) – Permission granted in December 2019 for demolition of the existing dwelling, Renesca, along with associated outbuildings and entrance pillars. Construction of an apartment block providing 33 no. apartments with associated balconies, comprising 9 no. 1-bed units, 19 no. 2-bed units and 5 no. 3-bed units. The development will be part 3-storey, part 4-storey and part 5-storey over basement. Basement level accommodating 37 no. car parking spaces, bicycle parking, storage lockers, refuse stores and plant rooms. Vehicular and pedestrian access at Cross Avenue, landscaping, boundary treatments and all associated site works and services.
- ABP Ref. 302921-18 – Decision to grant SHD development (Chesterfield) quashed by High Court for demolition of non-original fabric of Chesterfield House (a protected structure) and derelict sheds. Construction of 221 no. residential units, residents amenity facility and all associated works.

4.4. Other nearby SHD developments:

- ABP 308432-20 refers to a February 2021 decision to refuse permission for 122 apartments on lands formerly known as Richmond Cheshire Home, Richmond Park, Monkstown for the following reasons:
 1. *The Board considered that the proposed development would seriously injure the residential and visual amenities of adjoining properties by reason of its design, scale and mass in particular in respect of the increased levels of overshadowing, overlooking and visual impact and represented overdevelopment of a restricted site, relative to the existing and permitted development on site. The proposed development is considered contrary to the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department*

of Housing, Planning and Local Government in December 2018 and to the policies and guidelines of Appendix 9 (Building Height Strategy) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- ABP 308877-20 refers to an April 2021 grant of permission for 101 apartments at the former Europa Garage Site, Newtown Avenue, Blackrock.
- ABP 308946-20 refers to an April 2021 grant of permission for 140 units (apartments and duplex) at lands adjacent to Cluain Mhuire, Newtownpark Avenue, Blackrock.
- ABP 304068-19 refers to a July 2019 grant of permission for 142 no. Build to rent apartments at Roselawn and Aberdour, Stillorgan Road, Foxrock, Dublin 18.
- ABP 303804-19 refers to a June 2019 grant of permission for 294 no. apartments, conversion of St. Teresa's House, dismantling and relocation of St. Teresa's Lodge, single storey return of lands at The Alzheimer's Society of Ireland and associated site works.

5.0 Section 5 Pre-Application Consultation

5.1. Pre-Application Consultation ABP-309371-21

5.1.1. The pre-application consultation related to a proposal to construct 311 no. apartments in 3 no. blocks at the development site and took place on the 24th March 2021 via Microsoft Teams between the Board, the Applicant and Dún Laoghaire Rathdown County Council (DLRCC). The Board issued an Opinion on 28th April 2021, which stated that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development.

5.1.2. The issues raised which required further consideration can be summarised as follows:

1. Institutional Lands objective - further consideration and / or justification should address the objectives "to protect and / or provide for institutional use in open

lands” that pertain to the site having regard to the provisions of the Dún Laoghaire Rathdown Development Plan 2016- 2022.

2. Design strategy - Further consideration and/or justification of the documents as they relate to the design strategy for the site in respect of:

- a) Interface with Blackrock College, Cross Avenue and the access road to Blackrock College.
- b) Section 3.2 and SPPR3 of the Urban Development and Building Heights, Guidelines for Planning Authorities (December 2018).
- c) Quantum and quality of public and communal open space provision.
- d) layout of the development, hierarchy of open space, compliance with DMURS and provision of connections with adjoining lands and surrounding area.

In addition, a report that specifically addresses the proposed materials and finishes demonstrating particular attention in the context of visibility of the site and the long term management and maintenance of the proposed development and a building lifecycle report were also required.

3. Residential Amenities - particular regard to the potential for overlooking, overshadowing, access to daylight and sunlight and overbearing impacts on existing adjoining residential properties and proposed residential units within the scheme.

5.1.3. The opinion also stated that the following specific information should be submitted with any application for permission:

- A Housing Quality Assessment
- Report that addresses the quantum and quality of services, facilities and amenities proposed having regard to the future needs of the occupants of the proposed development.
- A Site-Specific Management Plan.
- An Architectural Impact Assessment.
- A Justification/rationale for approach to Childcare provision.
- A car Parking Strategy.

- A Wind Microclimate Study.
- An Ecological Impact Assessment.
- An Archaeological Impact Assessment.
- A Tree Survey and Arboricultural Assessment.
- A Landscape Impact Assessment and a Visual Impact Assessment including CGIs.
- Responses to the issues raised in the Report of the Conservation Division, the Report of the Transportation Planning Section, the Report of the Parks and Landscape Service and the Report of the Drainage Division of Dun Laoghaire Rathdown County Council, as contained in the Planning Authority's Opinion received by An Bord Pleanála on 2nd March 2021.
- A draft Construction Waste Management Plan, draft Construction and Environmental Management Plan and a draft Operational Waste Management Plan.
- The information referred to in article 299B (1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.
- A Material Contravention Statement where relevant.

5.1.4. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

1. Irish Water
2. The Minister for Housing, Local Government and Heritage
3. Heritage Council
4. An Taisce
5. Failte Ireland
6. DLR Childcare Committee

5.2. Applicant's Statement of Response to Pre-Application Opinion

5.2.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information / documentation submitted as specified in the ABP Opinion. The following alterations to the design as originally discussed at pre-app stage have been made:

- Reduction in height of the buildings, with maximum height of 9 storeys of the development.
- Relocation of the blocks to ensure retention of as many trees on the perimeter of the site as possible.
- Alteration to the block shapes to ensure sufficient distance between blocks and the existing neighbours to avoid any potential overlooking internally or to the neighbours.
- Omission of the roof terrace on Block A to protect neighbouring residential amenity.
- The open space around the development has been more clearly defined to provide a clear distinction of spaces, private, communal, and public open space.

6.0 Relevant Planning Policy

6.1. Section 28 Ministerial Guidelines

6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).

- Design Manual for Urban Roads and Streets (DMURS December 2013) (as updated) (Including Interim Advice note Covid-19 May 2020).
- Architectural Heritage Protection - Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the ‘Apartment Guidelines’).
- Regulation of Commercial Institutional Investment in Housing. Guidelines for Planning Authorities (May 2021).

6.2. **National Policy - Project Ireland 2040, National Planning Framework (NPF)**

6.2.1. The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. Table 4.1 of the framework sets growth targets for Dublin City and Suburbs, proposing a 20-25% growth in population to 2040. In achieving this, it places a great emphasis on compact growth requiring a concentration of development within the existing built-up area, including increased densities and higher building format than hitherto provided for. The NPF includes 75 no. National Policy Objectives (NPO). The following objectives are of note:

- NPO 2a: states that a target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
- NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- NPO 4: To 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.

- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 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.
- NPO 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.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 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.

6.3. **Regional Policy - Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**

6.3.1. The Dublin Metropolitan Area Strategic Plan (MASP) is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area. The following Regional Policy Objectives (RPO) are noted in particular:

- 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 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.
- 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.

6.4. Local Policy

6.4.1. The Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the operative County Development Plan for the area (here on referred to as the operative CDP).

6.4.2. **Land Use Zoning and Specific Local Objectives** - The following is noted pertaining to the development site:

- The site is zoned ‘Objective A’ which seeks to ‘*protect and/or improve residential amenity*’ – ‘Residential’ is ‘Permitted in Principle’ under this zoning objective.

- The lands associated with Blackrock College are subject to RES5 ‘Institutional Lands’ designation. The subject site may be considered to be subject of the specific local objective ‘INST’ which seeks “*to protect and / or improve Institutional use in open lands*”.
- There is also an objective located to the immediate north east of the site on the eastern side of the access road to Blackrock College which the plans states is “*To protect and preserve Trees and Woodlands*”.

6.4.3. **Chapter 2** of the Plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units. Chapter 2 includes inter alia policies which seek to increase housing supply and density (**RES3 & RES4**) ensure an appropriate mix, type and range of housing (**RES7**) and promote the development of balanced sustainable communities.

6.4.4. **Policy RES5 Institutional Lands** states: “Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs”.

6.4.5. **Section 2.1.3.5** states ‘It is recognised that many institutions in Dún Laoghaire-Rathdown are undergoing change for various reasons. Protecting and facilitating the open and landscaped ‘parkland’ settings and the activities of these institutions is encouraged. Where a well established institution plans to close, rationalise or relocate, the Council will endeavour to reserve the use of the lands for other institutional uses, especially if the site has an open and landscaped setting and recreational amenities are provided. Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained’.

6.4.6. **Section 2.1.3.5** also says the following, ‘A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly

by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8)' and 'In the development of such lands, average net densities should be in the region of 35 – 50 units p/ha. In certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands'.

- 6.4.7. Same section goes on to state 'In cases of rationalisation of an existing institutional use, as opposed to the complete cessation of that use, the possible need for the future provision of additional facilities related to the residual retained institutional use retained on site may require to be taken into account. (This particularly applies to schools where a portion of the site has been disposed of, but a school use remains on the residual part of the site.)'
- 6.4.8. **Chapter 4 – Green County Strategy**, includes **Section 4.2 'Open Space and Recreation'** and **Policy OSR7 'Trees and Woodlands'**, that refers to the Tree Strategy for the County, including objectives aimed at promoting the protection of existing trees and the planting of more trees.
- 6.4.9. **Chapter 8** deals with **Principles of Development** and describes the urban design standards for development, including provisions relating to open space. **Section 8.2.3.4** (Additional Accommodation in Existing Built-up Areas) (xi) (Institutional Lands) (relates to 'INST' designation on CDP maps) and notes a minimum open space requirement of 25% of the total site area (or population based provision, whichever is the greater). The plan includes an Advisory Note, which states that the standards and specifications in respect of apartment development as set out in section 8.2.3.3. (i), (ii), (v), (vii) and (viii) have been superseded by the Apartment Guidelines, including the mandatory SPPRs within same. The SPPRs of the Apartment Guidelines take precedence over the development plan standards and specifications as set out in Section 8.2.3.3. In addition, section 8.2.12.4 provide guidance on school development.
- 6.4.10. **Section 8.2.3.3 Apartment Development** states that the minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain

instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.

6.4.11. **Policy UD6 Building Height:** *“It is council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County”.* The **Building Height Strategy** is contained in **Appendix 9. Section 4.8** states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as ‘Upward or Downward Modifiers’. Upward Modifiers are detailed in **Section 4.8.1**. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one ‘Upward Modifier’ criteria.

6.4.12. **Appendix 16** of the plan contains guidance on Green Roofs which is also applicable to the proposal.

6.4.13. Other relevant sections include inter alia:

- **Chapter 8 – Principles of Development - Policy UD1:** Urban Design Principles and **Policy UD3:** Public Realm Design
- **Chapter 6 - Built Heritage - Policy AR1:** Record of Protected Structures
- **Chapter 7 – Community Strategy - Policy SIC8 –** ensure the reservation of primary and post-primary school sites.
- **Chapter 22 - Sustainable Travel and Transportation - Policy ST3:** implementation of the transportation strategy. Modal shift from the private car to more sustainable modes of transport.

Development Management standards of note (but not limited to):

- **Section 8.2.3.1** Quality Residential Design
- **Section 8.2.3.2** Quantitative Standards
- **Section 8.2.3.3-** Apartment Development
- **Section 8.2.3.5** Residential Development- General Requirements
- **Table 8.2.3** - sets out the residential land use car parking standards as follows:
Apartments - 1 space per 1 bed unit

1.5 spaces per 2 bed unit

2 spaces per 3-bed unit+

- **Section 8.2.4** – Sustainable Travel and Transport
- **Section 8.2.8** – Open Space and Recreation
- **Section 8.2.10.4** – Flood Risk Management
- **Section 8.2.11** Archaeological and Architectural Heritage (including ACAs)
- **Section 8.2.11.2** Architectural Heritage – Protected Structures.

Dún Laoghaire-Rathdown County Council (DLRCC) Standards for Cycle Parking & associated Cycling Facilities for New Developments 2018 - Table 4.1

sets out the cycle parking standards as 1 short stay space per 5 units and 1 long stay space per unit.

6.5. Applicant’s Statement of Consistency

- 6.5.1. The applicant has submitted a Statement of Consistency (see Chapter 7 of Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 Guidelines, the Dun Laoghaire Rathdown County Development Plan 2016-2022 and other regional and national planning policies. This has been examined and noted.

6.6. Applicant’s Material Contravention Statement

- 6.6.1. The applicant has submitted a Material Contravention Statement (see Chapter 8 of Planning Report). The statement addresses the issue of potential material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 - 2022 in relation to: (i) ‘INST’ Designation, Open Space and Tree Protection Requirements (ii) ‘INST’ Designation and Density (iii) ‘INST’ Designation & Masterplan (iv) Car Parking (v) Quantitative Apartment Standards: Dual Aspect, Unit Mix, Unit Size, Storage, Private Amenity Space, and separation between blocks and (vi) Building Heights.
- 6.6.2. The Board should note that the applicant states that given the recent High Court judgement – Michael Redmond v An Bord Pleanála (Judicial Review 2019 No. 709 J.R.) it is considered that the current application site - comprising lands formerly part of Blackrock College– is also subject to the institutional land designation applicable to the college lands. They state that this judgement is critical to the current proposal,

in that, should the Board consider that the current proposal does represent a material contravention of the Development Plan with respect to the institutional land designation, it is not restricted under Section 9(6)(b) of the 2016 Act from granting permission, as the material contravention does not relate to the zoning of the land.

6.6.3. The Potential Material Contraventions as outlined in the statement are summarised below: -

(i) 'INST' Designation, Open Space and Tree Protection Requirements

6.6.4. It is submitted that the application lands can be considered to be subject to the Institutional Lands designation in the Development Plan. However, it is considered that the proposed development does not materially contravene the Development Plan in relation to the provision of open space on lands subject to the Institutional Lands designation. As detailed in the submitted Landscape Design Statement and drawings and Urban Agency documents the gross public and communal open space provision totals c.8940.47sq.m or 0.89ha. This open space provision provides for protection of a significant number of trees and natural boundaries as is required by the Development Plan. This equates to over 71% of the site area far in excess of the 25% requirement set out under the Institutional land zoning. The applicant notes in the Redmond v An Bord Pleanála judgement it was considered that the reference to "total site area" in the Development Plan was intended to refer to the overall institutional lands, and not just the application (red line) site. The provision of open space within the application site and in combination with the open space remaining within the Blackrock College grounds (overall institutional lands – total site area) exceeds the open space requirements outlined in Sections 2.1.3.5 & 8.2.3.4(xi) of the Development Plan (i.e. 25%).

6.6.5. When added to the gross open space provision proposed in this development the total provision across the Institutional Designation lands of open space will be c. 32,000 sqm or 84% of the total Blackrock College site. This figure significantly exceeds the population based open space requirements in the Development Plan by between c.0.7ha and 1 ha. This will ensure that the "open character" of the institutional lands will be maintained as required by the Development Plan along with the retention of a significant number of trees and natural boundaries in accordance with Section 8.2.8.6 of the Development Plan. While the majority of trees are

retained on site, as set out in the Arboricultural Report, there will be some trees lost. These trees will be replaced with new tree planting and other supplementary landscaping around the development. Furthermore, the development will for the first time make the development lands and the new public spaces fully open to the public which is a significant planning gain given that the existing institutional lands are in private ownership and provide no direct recreational or amenity benefits to the wider area.

- 6.6.6. It is submitted that the proposed development does not materially contravene the development plan in respect of the quantum of open space provided. However, a precautionary approach has been adopted through the submission of the Material Contravention Statement in case the Board wishes to invoke the provisions of Section 37(2)(b).

(ii) 'INST' Designation and Density

- 6.6.7. Policy RES5 and Section 2.1.3.5 state that for institutional lands average net densities should be in the region of 35 - 50 units p/ha. This is exceeded by the proposed development of 201 units/ha. However, in certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. In addition to RES5, Policy RES3 states '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.' Whilst Policy RES5 of the County Development Plan seeks to generally provide average net densities of 35-50 units per ha, RES3 seeks to provide higher residential densities of minimum 50 units per ha on sites within 1km of a DART or luas stop and therefore a conflict exists (the development is within 1km of Blackrock Dart station). This policy aligns with Chapter 5 of the Section 28 Guidelines – "Sustainable Urban Development: Design Standards for New Apartments" (2020) and the definition of Central and/or Accessible Urban Location' given its proximity to the DART, bus services, and Blackrock Village, which is the main retail and employment centre in the area.

- 6.6.8. In addition to the above it is submitted that the proposal also complies with national policy under the NPF, in particular NPO 4, 5, 11, 13, 27, 33 and 35 which promote compact growth and increased densities. It is also submitted that the proposal complies with the Development Management Principles and Criteria for assessing increased building height outlined in SPPR 3 and Sections 3.1 and 3.2 of the Building Height Guidelines which take precedence over any conflicting, policies and objectives of development plans. The applicant also presents examples of SHD permissions granted in recent years which had greater densities than previously delivered at their relevant locations.
- 6.6.9. Although it is not specifically outlined that the applicant considers that the proposal materially contravenes the operative CDP in relation to density, it is submitted that if the Board considers that a material contravention of Policy RES3 or RES5 exists that the Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and sections 37(2)(b)(i), (ii), (iii) and (iv) of the Act of 2000.

(iii) 'INST' Designation & Masterplan

- 6.6.10. This site, as indicated above, was formerly part of Blackrock College lands but is now in separate ownership. An indicative Masterplan by Urban Agency has been submitted with this application. This is also addressed within the Design Statement by Urban Agency. The application is therefore broadly in conformity with Section 8.2.3.4 (xi) of the Development Plan. However, this is an indicative masterplan to indicate how the campus could evolve over time while protecting the historic nature and architectural heritage of the site. It enables the college to almost triple its size while consolidating and articulating the existing buildings settings by the applicant not by Blackrock College. It clearly demonstrates how the development would also exceed the 25% open space requirement for institutional designated sites.
- 6.6.11. The proposed indicative masterplan is an update of the masterplan developed by Coady Architects for Blackrock College in 2009. The proposed development, as demonstrated above, when taken in isolation, meets the criteria of the Development Plan and national planning policies. It also provides a masterplan for the wider site when former ownership is taken into consideration. However, whether Blackrock College will implement this indicative masterplan is questionable.

6.6.12. The applicant does not specifically state if they consider the proposal materially contravenes the operative CDP in this regard.

(iv) Car Parking

6.6.13. The objective for having a “standard” requirement for residential parking of 1 space per 1 bed unit and 1.5 space per 2 bed unit as set out in Table 8.2.3, requiring this development to provide over 142 car parking spaces, arguably conflicts with Policy ST3 which is aiming for a modal shift away from private cars as well as the text within Section 8.2.4.5 which requires a reduced car parking standards for any development that is close to a Town Centre, in proximity of public transport, the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a Travel Plan. All of which can be achieved on this site. It appears that the rigid application of Table 8.2.3 does not take into account the circumstances of the site and the circumstances where reduced car parking may be appropriate. It should also be noted that the application complies with the 2020 Apartment Guidelines (sections 4.18, 4.19 and 4.23).

6.6.14. The Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and sections 37(2)(b)(ii) and 37(2)(b)(iii) of the Act of 2000.

(v) Quantitative apartment standards: unit mix, unit size, storage, private amenity space, dual aspect and separation between blocks.

6.6.15. Section 8.2.3.3 of the DLRCC County Development Plan 2016-22 provides recommendations with regard to the provision of dual aspect apartments and also unit mix and sizes for apartments. The proposal does not accord with a number of these criteria, however the proposal does accord with national Guidance through the Apartment Guidelines 2020 and the required criteria of the SPPRs, these details are presented as follows:

- Unit mix 8.2.3.3 (iii) – The proposal does not accord with this section of the operative CDP, as there are 57% studio and 1 bed units proposed as part of the development, however the mix does accords with the standards for BTR within the Section 28 Apartment Guidelines but is contrary to the Development Plan standard.

- Internal Storage 8.2.3.3 (v) - Each Studio and 1 bed unit has a minimum of 3sqm, each 2-bed unit has a minimum of 6sqm which is in accordance with the Section 28 Apartment Guidelines but is not (in every case) in accordance with the Development Plan requirement of 7 sq.m. Each 3 bed unit has 9sqm minimum for storage.
- Minimum Apartment Floor Area 8.2.3.3 (vii) - These sizes all accord with the Section 28 Apartment Guidelines but are contrary to the Development Plan standards.
- Private open space 8.2.3.3 section (viii) and 8.2.8.4 (iv) - A number of studios have 4sqm balconies, a number of 1 bed apartments are 5sqm, and a number of 2 bed apartments are 7sqm. Again, these all accord with the Section 28 Apartment Guidelines but are contrary to the Development Plan standards.
- Dual Aspect 8.2.3.3 (ii) - 56% of units are dual aspect in accordance with the Section 28 Apartment Guidelines but do not conform with the Development Plan standards.
- Separation between blocks 8.2.3.3 (iv) - The blocks have in general a separation distance of 22m between each block, however this reduces to c.17m at a particular point. Undue overlooking between units at that location are addressed through careful orientation of primary windows. This is considered in accordance with NPO 13 of the National Planning Framework which promotes performance criteria over rudimentary numerical standards.

6.6.16. It is submitted that the proposed increase in density, while also providing attractive apartments, that meet the requirements in terms of daylight and sunlight, protection of privacy and large areas of well light communal and public open spaces, is entirely in line with the NPF, national policy guidelines and specifically the Apartment Guidelines which value qualitative assessment over quantitative assessment. The applicant states that as per government policy SPPRs take precedence over any conflicting, policies and objectives of development plans. Compliance with the relevant Sections and SPPRs contained in the Apartment Guidelines is outlined on pages 123 to 126 of the applicant's statement. The applicant does not specifically state that the quantitative apartment standards proposed would represent a material contravention of the operative CDP and refers only to car parking, density and/or

building height when referring to the Board's further consideration of material contravention. However, I do note that the statement submits on page 130 that the Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(iii) of the Act of 2000 in relation to SPPRs contained in Guidelines and as already outlined above that these SPPRs take precedence over any conflicting, policies and objectives of development plans.

(vi) Building Heights

- 6.6.17. The proposed general height of the scheme at 1-9 storeys, would be in excess of County Building Height Limit of 3-6 storeys (allowing for the additional "upward modifier") and would therefore be a material contravention of Policy UD6 and Appendix 9 of the Development Plan. It is submitted that, with regard to section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 and section 37(2) of the Planning and Development Act, 2000 (as amended), the Board can grant permission for the proposed development in accordance with the National Policy Objectives NPO 4, 5, 13, 11, 27, 33 and 35 of the NPF. In addition, the proposal is in compliance with the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009. The proposed height of up to 9 storeys is contrary to the Development Plan, however, these policies in the Development Plan are currently under review and have been superseded by the Building Heights Guidelines which are National Planning Guidelines. SPPR 3 allows for development to exceed Development Plan policy where it can be demonstrated that it meets the criteria in the Building Heights Guidelines. This justification and evaluation of consistency set out in the Material Contravention Statement, along with all of the supporting documents by the Design Team, clearly demonstrate the compliance of the development with these guidelines. It is therefore considered that the proposed development complies fully with the objectives set out and is therefore considered to be in accordance with the provisions of national policy guidelines. The Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(iii) of the Act of 2000.

Material Contravention Statement Conclusion

- 6.6.18. The applicant submits that should the Board consider that the proposed development represents a Material Contravention of the operative CDP in relation to car parking, density and building height that the Board can grant permission under Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The proposed development is a “Strategic Housing Development”, as defined under Section 3 of the 2016 Act and therefore the Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(i) of the Act of 2000.
- 6.6.19. Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPR’s) of the guidelines in carrying out their function. SPPRs, as stated in the Guidelines, take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Compliance with Section 28 Guidelines is detailed above and therefore the Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(iii) of the Act of 2000.
- 6.6.20. In addition to this the applicant has also outlined that conflicting policies and objectives exist within the operative CDP in relation to ‘density’ and ‘car parking’ and therefore the Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(ii) of the Act of 2000.
- 6.6.21. Also, the applicant states that the proposed development is in line with other SHDs granted in the wider vicinity which have similar locational attributes and greater height and density than previously delivered in such locations, these are summarised as follows - Walled Garden, Gort Mhuire ABP 304590-19, Former Aldi Site, Carmanhall Road ABP 305940-19, Lisieux Hall, Murphystown Road ABP 307415, Dundrum Town Centre ABP 305261, Chesterfield House, Cross Avenue ABP 302921. The Board may grant permission for development, having regard to the provisions of section 9(6) of the Act of 2016 and section 37(2)(b)(iv) of the Act of 2000.

7.0 Third Party Submissions

7.1. 19 no. submissions on the application have been received from the parties as detailed at the front of this report. Of these submissions, 3 no. submissions have been received from prescribed bodies (again listed at the front of this report), the details of which are expanded upon under Section 9 below. 16 no. submissions were received from third parties, among those who made submissions are local residents, St. Margarets Residents Association, The Select Vestry of Booterstown & Carysfort Parish, The Board of Management of Booterstown National School and other concerned parties. The issues are summarised below under relevant topic headings:

Density, Zoning and Building Height

- Concerns regarding the proposed height, scale and density of the proposed development. Density inappropriate given the primarily low-rise urban development in the area.
- 201 dwellings per hectare is excessive. The other examples of permitted developments presented by the applicant have either a lower density or have much better transport and neighbourhood facilities to provide for said developments (site of former Stillorgan Leisureplex 294d/ha). Density should be reduced to a max of 70dha.
- Proposal is incongruous with the surrounding area and an overdevelopment of the site. The building heights should be reduced.
- Blackrock College Lands are indicated as 'institutional' and therefore 25% open space requirement is required and the open character of the site is required to be maintained. This is not provided for on site.
- The proposal does not comply with the development management principles and criteria set out in the Building Height Guidelines, in particular no justification is given at the relevant city/town criteria for 9 storeys.

Design, Layout and Build to Rent

- Planning consultant's report states that the Architects Design Statement (ADS) shows how the design complies with the Urban Design Manual, however the ADS makes no reference to this manual.

- No indication of how the scheme has been designed in relation to the immediate urban context.
- There is no “commercial area” on Cross Avenue, only one estate agent on Mount Merrion Avenue, with side entrance onto the corner of Cross Avenue.
- It is not appropriate that 140 units (57%) of the development will be 1 bedroomed or smaller.
- Build to rent development would produce units at unaffordable rents and also would not contribute to a sense of community in the area.

Residential Amenity

- Overlooking and overshadowing of existing and proposed dwellings due to minimal separation distances.
- Overlooking of adjoining properties to the west, in particular from Building A and loss of existing screening.
- Overlooking of adjoining schools and school children.
- Building separation distance of 17.3m between Building B and C is not considered sufficient. The glazed screening proposed would not be necessary if sufficient separation distances were provided.
- Overconcentration of services and activities in the southwestern area of the site in Building A will have an impact on the residential amenities of properties to the immediate west. These should be relocated to Building B or C.
- The Environmental Noise Report does not provide any detail or predicted noise levels on adjoining properties from the mechanical plant required for the commercial aspects of the proposed development. Section 6.4 of same report refers only to impacts on sensitive receptors within the site and no consideration of these sensitive receptors that abut this site is given.
- Concerns regarding the operation hours proposed for use of residential services, no details given. Section 6.2.2 would suggest that management staff will only be in place up to 8pm.
- No meaningful open space has been provided and the public open space provided is unlikely to be used by the public.

Material Contravention

- It is not agreed that the proposal retains the open space character of the site and the INST designation. Reference is made to Marmalade Lane (ABP 308157 where the Board removed two blocks).
- The site is not centrally located or an accessible urban location as per the 2020 Apartment Guidelines and therefore does not justify the lower provision of car parking on site. Page 105 of the Planning Report omits any reference to distances to public transport from the site. The site should be correctly classified as an intermediate location. The nearest part of the site is more than a 10min walk from Blackrock Dart Station.
- Compliance with Section 3.2 of the Building Height Guidelines cannot be relied upon.

Visual impact

- The visuals provided are misleading and do not provide a true representation of distant views from the coastline/dart station.
- All the visuals show the trees along Cross Avenue in full leaf, which screens the development from a lot of views, however these trees are deciduous and therefore views of the site will occur for 6 months of the year when the leaves are lost.
- The scales on the views presented from Cross Avenue do not appear to be correct.

Parking, Traffic and Public Transport

- The permanent removal of 15 car spaces on Cross Avenue to facilitate the development is a major concern. No proposals for replacement anywhere and their removal will lead to a regression back to the traffic congestion previously on the street, prior to their installation by DLRCC.
- Insufficient car parking provided on site (71 no. spaces) which will lead to an overflow and over reliance on parking on Cross Avenue and Mount Merrion Avenue.
- Three schools are located immediately proximate to the proposed site, Blackrock College, Sion Hill and Booterstown National School and the road also provides access to 5 no. other schools in the Booterstown area. The

adverse impacts expected from additional traffic volumes has not been addressed by the applicant and there will be a safety risk particularly to school children who walk and cycle to school.

- School drop-offs and pick-ups would be impacted as well as any traffic/visitors to the Barrett Cheshire Home which is also located on the St. Philip and St. James' Church campus grounds.
- Traffic management reports do not appear to be publicly available.
- Query the justification set out by the applicant in relation to the proposed 13 no. go-car spaces and accessibility to same in the basement.
- The bicycle storage is not compliant with the DLR Cycling Policy and does not provide adequate circulation space for bikes.
- Existing public transport serving the area is already at full capacity.

Future Development in the Area

- The development will have a significant impact on the future development of the immediate neighbourhood and its residential, educational and social amenity uses.
- The Draft DLR Development Plan 2022-2028 zones the Blackrock College lands as 'SNI – to protect, improve and encourage the provision of sustainable neighbourhood infrastructure'. The draft plan separates the definition of residential use from BTR development. BTR is 'open for consideration' under Zoning Objective A. The site has an objective to 'protect and preserve Trees and Woodlands'.

Impact on Educational and Other Services

- The proposed development by virtue of its proximity to other services would be problematic for the range of activities undertaken at Booterstown National School and St. Philip and St. James' Church and the parish centre, as well as the daily operation of these facilities.

Environmental Impact

- Environmental impact statement reports do not appear to be publicly available.

- A significant badger sett exists on site, which was not identified as part of the planning application. On investigation by objectors, it was noted that the entrance to several former badger setts have now been covered over.
- Concerns in relation to the adequacy of the 'terrestrial mammals' section of the EclA in particular with regard to badgers.
- Concerns regarding the presence of bats on site and the impact on roosting bats on adjoining properties (trees and out houses).

Architectural Heritage

- Concerns expressed regarding impact on architectural heritage and protected structures in the area. The proposed developments by virtue of its height and scale and proximity immediate to St Philip and James' Church (protected structure).

Other Matters

- Serious lack of engagement with surrounding residents, school boards and religious institutions. It may have been possible for a lot of the concerns raised to have been addressed if there had been prior engagement.
- SHD process does not allow adequate time for meaningful engagement or the making of submissions.
- Possible impact on water pressure which has already been reduced significantly in the past ten years.
- Concerns in relation to the capacity of the sewage system to deal with such a large development.

8.0 Planning Authority Submission

8.1. Overview

- 8.1.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun-Laoghaire Rathdown County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 15th October 2021. The submission from the Chief Executive includes details in relation site location and description,

proposal, zoning, planning history, interdepartmental reports, summary of submissions/observations, summary of views of elected members, policy context and assessment. The report may be summarised as follows:

8.2. Views of Elected Members

8.2.1. The views of the relevant Elected Members as expressed at the Dun Laoghaire HEPI Special Area Committee Meeting held on 20th September 2021 can be summarised as follows:

Height, Scale and Density

- Significant concerns in relation to scale, height, massing and bulk of the proposed development which are entirely out of character with surrounding area.
- Residential density is excessive.
- Photomontages are misleading and not representative of the true impact of the development.
- The site should be utilised for educational purposes rather than residential.

Residential Amenities

- Scale of development will have significant adverse impact on residential amenities of properties in the area by reason of being visually overbearing and will result in overlooking of schools within the surrounds.
- Overlooking is a serious issue from the rooftop communal areas.
- Ability to allow pets within the development is welcomed (pet wash area noted).

Traffic Safety and Carparking

- Concerns regarding traffic safety and management given the proximity of the site to a number of schools.
- Concerns regarding lack of sufficient car parking which will result in on-street car parking pressures.
- One Councillor highlighted that the level of car parking provided was a positive element of the proposal and is adequate given the location of the site in terms of public transport and connectivity.

Childcare

- Concerns regarding the lack of childcare facilities provided on site. Significant demand for childcare facilities/spaces exists within the surrounding area.

Housing Mix and Part V

- Concerns regarding the mix of units proposed and the dominance of one and two bedroom apartments.
- The scheme does not cater for families and is not socially responsible.
- Proposal will result in a poor standard and quality of accommodation.
- The Part V provision on site is unacceptable and below the required 10% when looking at the total number of bedrooms within the proposed development.

Natural Environment

- Concerns regarding the impact of the proposal on the natural habitat within the site and surrounds.

8.3. Planning and Technical Analysis

- 8.3.1. The requirements of Sections 8(5)(a)(ii) and 8(5)(b)(i) of the 2016 Act is outlined in the Report under various headings and may be summarised as follows:

Principle of Development, BTR, School Policy/INST Objective, Childcare Provision

- Given the nature of the proposed development to be located on lands zoned objective 'A' the principle of residential development on this site is considered to be generally acceptable.
- The planning authority (PA) is generally satisfied that the subject site represents a suitable location for a BTR housing development.
- The applicant's response to the matters raised by ABP with regard to justification for development of the site (formally part of Blackrock College but sold separately and segregated by access road and its residential use) is noted.
- The PA outlines it has an obligation to consider the educational needs of the wider area irrespective of ownership patterns, consideration of the future viability to development the existing Blackrock College grounds in particular

given that Special Conservation Interests (SCIs) from nearby Special Protection Area (SPA) may utilise the playing pitches as breeding grounds which needs to be considered. This may reduce the area available for development.

- Having regard to the overall size of Blackrock College Campus lands and the extent of the remaining open space within the site, the indicative masterplan as included with the ADS and associated drawings and the quantum quality of the public/communal open space provision on the application site, the PA is satisfied that the applicant has demonstrated that the proposal is generally in accordance with the institutional objective that applies to the lands and Section 8.2.3.4 (xi) of the Development Plan.
- With regard to Childcare provision the PA note Section 7.1.3.6 and Policy SIC1 of the development plan which requires residential development with 75+ dwellings to provide one childcare facility on site. It is noted that the applicant has referred to section 4.7 of the Apartment Guidelines 2020. It is unclear from the submitted Creche Assessment how the applicant has concluded that there is sufficient capacity within the 9 no. providers within a 1km radius of the site. The PA do not accept the justification put forward and consider the proposal to be contrary to Section 7.1.3.6 and Policy SIC1 of the operative CDP. If permitted a condition should be attached requiring the incorporation of a childcare facility on the ground floor of Block C in lieu of apartments.

Residential Density

- Given the site's location in the context of Blackrock Village and the availability of various modes of public transport, the PA is satisfied that a higher density of development may be absorbed at this location provided that the residential amenities of properties in the immediate area are protected and the development responds to the architectural character of the surrounding area.

Residential Amenities

- Overbearance – The PA is satisfied that Building A which is closest (4.5m) to the nearest residential property boundary with 'Goleen' to the west, given its varied heights and setbacks will not unreasonably compromise the residential

amenity of the established residences by reason of being visually overbearing.

- Overlooking – At first floor level and upwards, a varied set back of between c. 15m and c. 36m exists between Building A and the western boundary of the site which it shares with 'Goleen' and St. Margarets. The PA are not satisfied that the proposed aluminium screening and the proposed and existing vegetation along the western boundary will be adequate to mitigate overlooking of adjoining properties. Horizontal louvre screens should be provided to the western face of the balconies of apartment nos. 15,17,19,32,34,36,49,51 and 53 and nos. 28, 29, 45 and 46 of Building A to a height of 1.8m to prevent overlooking.
- Daylight, Sunlight and Overshadowing – Having regard to the Sunlight Report submitted, the PA is satisfied that the proposed development will not unreasonably compromise the residential community of the established residences to the west or south of the site by reason of overshadowing and loss of sunlight.

Architectural Character

- Given the proximity of the site to a number of protected structures Section 8.2.11.2 (iii) of the operative CDP is relevant to the proposal. The PA note that Clareville and Tower Green, both of which are proposed for demolition, offer limited value in terms of architectural interest and are satisfied that their demolition is considered acceptable.
- The PA acknowledge the requirement to knock the 18th Century wall along the southern boundary of the site to allow the site to be more permeable and concur with the recommendations contained within the AHIA in relation to the process of demolition and detailed recording to inform archival information of the original Clareville demesne.
- The PA is satisfied that given the siting of St. Philip and St. James' Church (protected structure) relative to the application site, the proposal will not have an adverse impact on the character or legibility of this structure.
- The PA raised concerns at pre-app stage regarding the overall height of the development particularly Buildings B and C and requested additional photomontages taken from the Rock Road. The PA has had regard to these

photomontages provided with the AHIA and the T&VIA and is now satisfied that the proposal is acceptable having regard to the architectural character of the surrounds and the legibility of the existing protected structures within the Blackrock campus grounds.

Building Height

- It is noted that the applicant has not provided any detailed analysis of the proposal against Section 4.8.1 of the CDP's Building Height Strategy in terms of what upward or downward modifiers may apply, however the PA state that they are cognisant of and have had regard to the Building Height Guidelines (2018) and in particular to SPPR3.
- The PA note that the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions this must be clearly identified and rationale for any alternative compensatory design solutions must be set out. Although a small percentage of rooms within the proposed development fail to comply fully with the requirements of the daylight provisions, the PA is generally satisfied that the apartments are generally designed to a high standard and coupled with compensatory design measures will afford a good level of amenity to future occupants.
- It is not clear whether the proposal has an impact on existing telecommunication channels.
- The CE Report provides a response to the detailed criteria set out in section 3.2 of the Building Height Guidelines. It is considered that the site is suitable for accommodating additional building height to assist in securing NPF objectives to promote compact urban growth and the site is well served by public transport. However, the planning authority states serious concerns with respect to the overall height and scale of Building B and C and would consider the resultant visual impact detrimental on the existing streetscape. It is noted that only View No.9 includes a 'no leaf' scenario. The PA concludes that the development does not accord with the proper planning and sustainable development of the area and recommends refusal on this basis (see section 8.5 below).
- The planning authority recommends the following amendments to the development should the Board decide to grant permission:

- Omission of two number intermediate floors from Buildings B and C is recommended.
- In addition, graduation in height should be provided within Building C similar to what has been adopted within Building B. This will reduce the potential impact on the existing streetscape character. This can be achieved through the omission of apartments number C73-77 and the relocation of the tenant amenities and facilities within building C to the northern end of the building.

Design and Massing

- The PA note that the ADS indicates that the screens/facades of buildings will support a variety of climbing plants yet no details of same have been submitted within the architectural drawings or the landscape architect's plans or elevations. In the event of a grant of permission a condition requiring comprehensive details with respect to the provision of planters and details in respect of maintenance and management of same should be attached.
- The PA consider that an alternative finish to the proposed selected clay/lime render finish proposed should be used for the principal elevations, something that is more responsive to the character of the site and surrounds and use of a lighter tone of brick such as buff brick. Suitable conditions should be attached to require same.
- There is a lack of detail on the submitted plans in particular in respect of the ventilation for basement level car parking area. An appropriate condition should be included outlining details of same to be agreed with the PA.
- The PA recommend the draft legal covenant be amended by way of condition to 15 years from date of 'occupation' of development rather than the date of the 'grant of planning permission' as detailed in the draft legal covenant.
- The PA are satisfied the development complies with SPPR 8 (i) however they do have concerns in relation to the predominance of 1 and 2 bed units.
- The Housing Quality Assessment and Schedule of Accommodation indicates that the proposed floor areas, amenity space, dual aspect requirements are in

accordance with SPPR 3, SPPR 8, SPPR 4, SPPR 7 (b) of the Apartment Guidelines in relation to BTR development.

- Modifications to the scheme in response to the PA's previous comments at pre-app stage regarding separation distances and overlooking are noted, however the PA consider that frosted glass panels on the side of balconies should be utilised on a greater number of apartments across each of the apartment buildings given their proximity to one another and potential for overlooking and that this could be addressed by way of condition.

8.4. Department Reports

Landscaping & Communal Open Space

- The Parks and Landscape Services Section have highlighted significant concerns with respect to the impact of the proposal on the existing trees within the site and state that the proposal is not in accordance with the CDP and departmental guidance. It is recommended that an alternative layout is required to bring the site into line with best practice and it is also highlighted that the site is the subject of an objective '*To protected and preserve trees and woodlands*'. In addition, the Parks Department state that the podium tree planting has not been afforded sufficient soil depths to reach the proposed maturity. The PA also raise concerns regarding the proposed public open space and its future function given that the proposed scheme is not to be taken in charge.
- Play items noted on drawing L1-903 and L1-905 are not visible within the site landscape master plan. Concerns are highlighted that the play equipment provided will not fit into the proposed play areas in their current scale and format. If permission is granted details of same should be agreed with the planning authority prior to commencement of development.
- The Parks and Landscape Services Section also recommend that further discussions with Blackrock College are required to examine the feasibility of maintaining pedestrian and cyclist access to the northern and eastern boundaries. it is also strongly requested that the railings along these boundaries are omitted to prevent impact on existing trees.

Environmental Health Officer

- Proposal is acceptable subject to compliance with a number of conditions in relation to the Demolition Management Plan and the CEMP.

Drainage

- The Drainage Planning Section raised concerns regarding the significant changes since pre-app discussions to the surface water drainage proposed on site which has now moved from gravity-based surface water discharge to a pumped solution which is considered unacceptable. Drainage Planning is of the opinion that a gravity solution is achievable for this site and proposes the inclusion of conditions to ensure same.
- A SSFRA should be required by condition which should specifically address the risk due to overland flow and how the proposed surface water drainage system will address potential blockages or surcharging/flood risk.

Transportation and Access Issues

- Transportation Planning Section recommend that pedestrian access from the northern site boundary is provided including a universal access route. This would allow better connectivity for future BTR occupants through Blackrock College to sustainable transport modes. The PA note however that this may not be feasible due to the fact that Blackrock College lands are in private ownership.
- The basement carpark should be redesigned with a circuitous route in accordance with the “Institution of structural engineers booklet entitled ‘Design recommendations for Multi Storey and Underground Car park, Fourth edition’.
- Concerns also with regard to the loss of 15 no. street car parking spaces and the impact same would have at school drop off times.
- The proposed level of reduced residential car parking at 0.29 spaces/unit is too low even taking into account SPPR 8 (iii) for this BTR scheme (shortfall of 213 no. spaces) and recommends an increased provision to 1 space per unit.
- If deemed acceptable by the Board the reduced level of car parking should be included within the BTR Deed of Covenant so that future residents are aware.

- The applicant should detail proposed arrangements to ensure availability of car club vehicles for future rental residents (15 no. Go Car (car club)) spaces to be provided.
- An appropriate set down for refuse and large delivery vans has not been demonstrated in the submitted engineering drawings.
- Basement level cycle parking is poorly designed (two tier cycle parking does not comply with DLRCC standards) and will conflict with parking cars. Sheffield cycle stands are recommended. Access to 141 bicycle spaces is poor and should be segregated.
- The gradient of the basement access ramp exceeds the recommended 7% (1:14).
- 50% of short stay cycle parking should be covered and the provision of 'Bicycle Share' facilities for the site should be investigated.
- Transportation Planning recommended refusal based on the poor access and provision of cycle parking, inadequate provision of car parking and the subsequent impact this may have on on-street parking availability as well as the removal of 15 no. spaces on street.

Ecology

- Concerns raised by the DLRCC Biodiversity Officer regarding the works carried out on site prior to any ecological assessment being carried out including the development of a haul road in an area of Japanese knotweed.
- Following a review of all submitted documents the PA have recommended a number of conditions should permission be granted.
- Appropriate Assessment: The Appropriate Assessment Screening Report and NIS is noted.
- Environmental Impact Assessment: The EIA Screening Report is noted.

Other Matters

- The PA note the report from the Environmental Enforcement Section who are generally satisfied with the proposal subject to conditions.
- The Public Lighting Section request that the applicant redesign the lighting to meet requested lighting class (P3 and P4 lighting classes) and resolve identified tree conflicts. This can be addressed by way of condition.

- Part V – if approved a condition should be attached requiring the applicant/developer to reach agreement with DLRCC (provision of 10% of the land is suggested).
- If approved, full details of the proposed augmentations to the western boundary wall should be submitted for agreement to the PA.

8.5. Planning Authority Recommendation

8.5.1. The planning authority **recommends refusal** for the following 4no. reasons:

1. The proposed development, by reason of its overall scale, height (notably buildings B&C) and visual prominence within the existing streetscape, fails to have due regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposed development is considered to be contrary to the policies and guidelines of Appendix 9 (Building Height 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, if permitted, set an undesirable precedent for other similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the suburban location of the application site and quantum of car parking spaces proposed to serve the proposed BTR residential development, it is considered that insufficient car parking (0.29 spaces per unit) has been provided to cater for the proposed development. The planning authority has concerns that the proposed development will result in on-street car parking pressures which will be exacerbated given the location of the site in the context of the existing schools that are located within the site's immediate vicinity. The proposal may endanger public safety as a result of lack of sufficient off-street car parking spaces to serve the proposed development creating potential for illegal/inappropriate parking on roads in the area causing traffic hazard and obstruction and thereby affecting local amenity – i.e. the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, as per Clause 4 of the FOURTH SCHEDULE (reasons for the refusal of permission which exclude compensation) of the Planning and Development Act, 2000. The proposed development would, if permitted, set an

undesirable precedent for other similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, due to the layout, stacked nature and access/egress arrangements from the basement carpark will inhibit the use of the majority of the cycle parking spaces by residents of the proposed development. Having regard to the design, location and quality of the proposed cycle parking spaces and the nature of the proposed BTR residential development, where by there should be a focus on achieving a more sustainable model split, the proposed development is considered to be contrary to planning authority's 'Standards for Cycle Parking and associated Cycling Facilities for New Developments - January 2018', Section 8.2.4.7 (Cycle Parking) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020, DoHPLG). The proposed development would, if permitted, set an undesirable precedent for other similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The layout of the proposed development and the infrastructure servicing it, is at risk of impacting the site's character and natural heritage due to the impact on the significant mature tree population within the site. The proposed arrangement of the development could result in a significant impact on the root protection areas of established mature specimens, Category B trees (916, 918, 919, 920, 935, 969) and the habitats and the ecosystem associated with them. The planning authority considered that the landscaping depicted in the imagery of woodland plantings surrounding the development is not achievable and above podium tree planting has not been afforded sufficient soil depths to reach the proposed maturity as set out by the application documentation. As a result, the proposal is not considered to accord with the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 objective 'To protect and preserve trees and woodlands'. The proposed development would, if permitted, set an undesirable precedent for other similar development and would, therefore, the contrary to the proper planning and sustainable development of the area.

- 8.5.2. Should the Board be minded to grant permission the planning authority have recommended 50 no. conditions, which include for the omission of two intermediate

floors (5th and 6th) from each of Blocks B and C, and omission of apartment nos. C73-C77 and the relocation of tenant amenities and facilities within Building C to the northern end of the building. The omission of apartment nos. C05, C07 and C09 at ground floor level within Building C and the inclusion of a creche in its place, with associated directly accessible external play area. In addition to the proposed aluminium screens, the PA requests that horizontal louvre screens shall also be provided to the western face of the balconies of apartment nos. 15, 17, 19, 32, 34, 36, 49, 51, 53. Horizontal louvre screens should also be provided on the western side of the balconies of apartment nos. 28, 29, 45, 46. The horizontal louver screens shall the height of 1.8 meters above finished floor level. As a consequence of the above amendments, the total number of units permitted would be 192 residential units. Details of other recommended conditions are listed in the CE Report.

9.0 Prescribed Bodies

9.1. Inland Fisheries Ireland, Irish Water and the Development Applications Unit responded. The following is a brief summary of the issues raised:

9.1.1. Inland Fisheries Ireland (IFI)

- Best practice should be implemented at all times in relation to any activities that may impact on surface waters in the area. Comprehensive surface water management measures (in accordance with the GDSDS) must be implemented at the construction and operational stages.
- Measures in relation to appropriate topsoil storage should be implemented on site.
- Any dewatering of groundwater during the excavation of the basement must be treated by infiltration over land or into an attenuation area before being discharged off site. On-site attenuation ponds may be required.
- Receiving foul and stormwater infrastructure should have adequate capacity to accept predicted volumes from the development with no negative repercussions for quality of treatment. It is noted that the Ringsend WWTP won't be fully upgraded until 2023 and that a recent High Court judgement ruled that planning permission must be quashed for the proposed €500 million

WWTP at Clonshaugh which was intended to supplement the Ringsend WWTP (Nov 2020)

9.1.2. **Irish Water**

- The applicant has been issued a Statement of Design Acceptance for the development.
- Water supply - In order to facilitate the proposed development approx. 140m of a new 150mm ID pipe main is required in Cross Avenue to connect to the development to the existing 9" CI main in Mount Merrion Avenue. Irish Water currently does not have any plans to extend its network in this area. The applicant would be required to form this network extension as part of a connection agreement.
- Wastewater - separate storm and foul water connection services must be provided for the development. Stormwater from the site must be discharged only into the existing stormwater network in Mount Merrion Ave. The connection arrangement should be agreed with the local authority drainage division.

9.1.3. **Department of Housing, Local Government and Heritage**

Archaeology

- Previously unrecorded subsurface archaeological features may be encountered during the course of groundworks. Therefore, the Department recommended 4 no. conditions including the engagement of a suitably qualified archaeologist to carry out a programme of archaeological testing under archaeological license across the proposed development site as a condition of planning. Other conditions include for archaeological test excavations to be carried out, submission of a written report to the planning authority and to the National Monuments Service on completion of work and correct preservation of any archaeological material/features found.

Nature Conservation

- The bi-weekly bird surveys of the development site between November 2020 and March 2021 are noted. It was noted that no usage of the development site by any SCI species (including light-bellied brent geese) of the South

Dublin Bay and River Tolka Estuary SPA (which is located c.0.5km north of the proposed site) was revealed by these surveys.

- 20 mainly passerine, resident bird species were recorded also during the bi-weekly surveys. Though no breeding bird surveys were carried out it can be assumed that many of these species' nest in trees and shrubs on the site and that some of their nests would be lost during site clearance. As all the species identified are common, the loss of such nesting habitat is only considered of minor significance from a wildlife conservation perspective. The Department welcomes the statement in the EclA which limits tree and shrub removal outside of bird nesting season (1st March to 31st August).
- Soprano pipistrelles were detected during the bat surveys of the site. While no actual bat roosts were identified, it is noted that some of the trees have potential for roosts, in particular tree no. 920 which is to be retained. However other trees which may be suitable are not identified in the bat report or if their removal is proposed. There is a lack of detail regarding proposed lighting during the operational phase of the development, though the CEMP does mention lighting being made sympathetic to bats.
- No badger setts or badger activity was noted as part of the submitted EclA, however the NPWS was notified of badger activity on site by a concerned neighbour and investigated further. A possible badger sett was identified under several Monterey cypresses in the belt of trees (nos. 933,934 and 935) on the southern part of the site near Cross Avenue. This possible sett had been previously blocked by a tile at the entrance. Anecdotal evidence of badger activity on site was also noted (video recorded on trap camera on site).
- The proposed translocation of an identified 'bee orchid' on site is welcomed as are the management plans for the control of Japanese knotweed and three-corned leek (invasive species).
- The various measures set out in the applicant's AA documents and Outline CEMP to prevent pollutants originating from the development site being transported by water run off to the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA are considered acceptable.

The department has recommended that 6 no. conditions are attached in the event that permission is granted, these are summarised as follows:

1. Clearance of vegetation limited to the period outside bird nesting season (1st September to end February).
2. A bat conservation report is required to be submitted to the planning authority prior to the commencement of development. This is to include an assessment of the suitability of any trees proposed to be felled as potential bat roosts and a methodology and schedule for their removal under the supervision of a bat expert licensed to handle bats. A derogation licence from the NPWS will be required for any trees with identified bat roosts that require felling.
3. A bat friendly lighting scheme for the proposed development signed off by a bat specialist shall be submitted to the planning authority for approval prior to commencement of works on site.
4. The management plans for the control of invasive species shall be implemented in full.
5. Prior to commencement of development the applicant shall submit a badger conservation plan to the planning authority for their written agreement. This should include for a survey identifying the extent of the burrow system on site and also the methodology for the preservation of this burrow system during construction works.
6. A CEMP shall be submitted prior to the commencement of works on site for written agreement with the planning authority setting out all the mitigation measures in the NIS and outline CEMP.

9.1.4. No comments were received from the Heritage Council, An Taisce, Failte Ireland or the Dun Laoghaire Rathdown County Childcare Committee.

10.0 Oral Hearing Request

10.1. None requested.

11.0 Assessment

11.1. The Board has received a planning application for a housing scheme under Section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment considers the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the Chief Executive's (CE) report, 3rd party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle and Density of Development with Regard to the INST Objective
- 'INST' Designation
- Building Height and Visual Impact
- BTR, Housing Mix and Tenure
- Future Residential Amenities/Residential Standards
- Surrounding Residential Amenity and Other Uses
- Trees and Landscaping
- Invasive Species
- Social Infrastructure – Childcare/Creche
- Architectural Heritage
- Traffic and Transportation
- Site Services and Flooding
- Ecology
- Other Matters
- Planning Authority Concerns
- Material Contravention

11.2. The attention of the Board is drawn to the fact that a Material Contravention Statement has been submitted with the application. It deals with the matters of (i) 'INST' Designation, Open Space and Tree Protection Requirements (ii) 'INST'

Designation and Density (iii) 'INST' Designation & Masterplan (iv) Car Parking (v) Quantitative Apartment Standards: Dual Aspect, Unit Mix, Unit Size, Storage, Private Amenity Space, Dual Aspect and separation between blocks and (vi) Building Heights. The relevant technical matters and related development plan policies and objectives are addressed in each section, with the details of Material Contravention dealt with separately below. I shall deal with each of the matters individually below, but as a summary I consider that only Building Heights represent a material contravention of the operative County Development Plan.

11.3. Principle of Development and Density of Development with Regard to the INST Objective

- 11.3.1. The site is zoned 'Objective A' with the associated land use objective '*to protect and/or improve residential amenity*'. Residential use is listed as 'Permitted in Principle' on these lands. The applicant proposes to demolish 3 no. properties and their associated outbuilding structures on site, these include a detached residential property 'Tower Green' (c. 295sqm) which is located in the southwestern corner of the site and two adjoined properties at 'Clareville' (c.698sqm) which are located close by to the east. None of these properties have any architectural heritage merit and I note that the planning authority, from the details contained in their submitted Chief Executives (CE) Report, are generally satisfied with regards the proposed demolition works. I am also satisfied in this regard and consider the demolition of these properties acceptable.
- 11.3.2. An 'INST' symbol is located on the Blackrock College lands to the north of the subject site. This is listed on the Map Index under 'Other Objectives' as a 'Specific Local Objective' and is separate to the 'Use Zoning Objectives'. This 'INST' reference is an abbreviation for 'Institutional Lands' designation. The 'INST' designation seeks '*to protect and/or provide for Institutional Use in open lands*'. As Blackrock College would have formerly included the application site, the 'INST' objective in my opinion is directly applicable to the current site also, regardless of the fact that the current site is no longer under the ownership of the College. (i.e. the subsequent transfer of land subject to the 'INST' designation to a non-institutional third party (the applicant) did not relieve the lands sold of that designation as adopted under operative CDP). The application of the 'INST' objective to the site is also confirmed by the planning authority in the submitted CE Report.

- 11.3.3. I am of the opinion that given its residential zoning, the delivery of residential development on this prime site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and the Government's 'Housing for All' plan and 'Rebuilding Ireland' and therefore I consider the proposal to be acceptable in principle and while the Specific Local Objective for Institutional Use is noted, it does not override the underlying residential zoning objective. I also note that the planning authority concurs that the proposed development is acceptable in principle, subject to assessment of other matters.
- 11.3.4. The Board should note that in addition to the 'INST' objective, there is also an objective on the wider Blackrock College site and to the immediate north east of the subject site '*to protect and preserve trees and woodlands*'. Concerns were raised by the planning authority and third parties that that the proposed development, would result in an unacceptable loss of trees and, therefore that it is not in accordance with this objective. The application includes an Arboricultural Report, tree survey and associated drawings, which I consider further in my assessment below. It is my view that the proposed development is in accordance with this objective and these concerns are addressed in detail in relation to the 'INST' objective in the section that follows and also below in Section 11.9 – Trees and Landscaping.
- 11.3.5. Several observations received from third parties highlight that the Draft Dun Laoghaire Rathdown County Development Plan 2022-2028 proposes to make changes to the land use zoning objective on the site. The proposed new zoning objective 'SNI' seeks to '*protect, improve and encourage the provision of sustainable neighbourhood infrastructure*'. The observers highlight that while residential is 'open for consideration' under this new zoning objective, the draft plan separates the definition of 'Residential' use from 'BTR' which is not listed under same 'open for consideration'. While I note the observers concerns and comments, I would highlight to the Board that the current proposal is assessed under the operative CDP which is the Dun Laoghaire Rathdown County Development Plan 2016-2022 and given the expected adoption date of the new plan will not be until 2022, the policies which prevail to same are not relevant in my current assessment.

11.4. 'INST' Designation

11.4.1. Specific objectives in relation to the INST Specific Local Objective - Institutional Lands are provided in Section 2.1.3.5, Policy RES5 Institutional Lands and Section 8.2.3.4 (xi) Institutional Lands of the operative CDP. The plan recognises the changing nature of institutional lands and states that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area. This is subject to a number of caveats. In this regard Section 2.1.3.5 requires that proposed developments on institutional lands retain the open character of the lands, with a minimum provision of 25% of the total site area provided as open space (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater). Average net densities should be in the region of 35 - 50 units p/ha, however it is noted that *'in certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands'*. In addition, the possible need for the future expansion of the original institutional use may be required to be taken into account. In this regard it is also worth noting that Policy SIC8 of the operative CDP supports the provision of school facilities and the development/redevelopment of existing schools throughout the county. Concerns have been raised by third parties which suggest that proposed development is not in accordance with the site's institutional objective.

11.4.2. From an examination of the operative CDP and Section 8.2.3.4 (xi) of same in relation to Institutional Lands, it is my opinion that the main elements of the institutional designation which need to be considered are as follows and I shall deal with each separately below:

- Is there a demand for an alternative institutional use and where a school exists has sufficient space for possible future expansion or redevelopment been retained;
- Has an appropriate Masterplan been submitted.
- Have the open space/open character requirements required under the 'INST' designation been achieved, including the retention of existing features/trees;
- Do the densities on site accord with the zoning objective.

INST Objective and Demand for alternative institutional use and future expansion of existing school

- 11.4.3. Section 2.1.3.5 and Section 8.2.3.4 (xi) of the operative CDP states '*Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained*'. The submitted Planning Report states that '*this site was formerly part of Blackrock College lands; however it is noted that historically these two sites were independent of Blackrock College and only came into their ownership in more recent decades. The historic land ownership is reflected in the segregation of the application site from the rest of Blackrock College lands by the access road into Blackrock College which acts as a physical divide between the application site and the remainder of the lands*', and that the subject site '*has never been fully integrated into the site, has always been in residential use, and has never operated as educational buildings*'. The applicant states that Blackrock College sold the subject site to the current developer demonstrating that this land is not required for the operation of the college either now or in the future. In addition, I note that a letter has been submitted with the application from the 'Liebermann Trust' which confirms their support of the application and the future development of the property. They also confirm that "*any potential future expansion of the Blackrock school facilities can be facilitated on the Blackrock College lands retained by the Lieberman Trust which extend to some c. 53 acres.*" An indicative masterplan (which is discussed further below) was also submitted with the application which demonstrates how the existing Blackrock College campus, including the Blackrock College (Senior School), Willow Park (Junior School) and Williamstown Castle (Boarding Accommodation) can expand if required, with scope for potential future expansion of 60,300sqm on the campus site (excluding the current proposed site) if necessary.
- 11.4.4. In addition to the above although I note that some of elected members have stated that the site should be utilised for educational purposes rather than residential, there would not appear to be support or justification for same expressed by the planning authority. Therefore, having taken account of all the above, I see no obvious demand for an alternative institutional (educational) use on the subject site and in accordance with Section 8.2.3.4 (xi) consider that alternative uses subject to the area's zoning

objective may be permitted. This would be subject to other considerations, which are examined in the following sections.

INST Objective and Masterplan

- 11.4.5. Section 8.2.3.4 (xi) of the operative CDP states that *'In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority'*.
- 11.4.6. In response to the requirement to prepare a masterplan for the subject site and the wider Blackrock College Campus lands (including Willow Park School, Williamstown Castle and other outbuildings and sports facilities) an indicative masterplan contained within the Architectural Design Statement (ADS) has been submitted with the application. It is stated that the remaining campus encloses approximately 53 acres (excluding the subject site) and outlines the location of existing buildings including protected structures which are to be retained and proposed indicative areas/buildings (60,300sqm in total, including proposed building heights of 3 to 6 storeys) for future development on the campus. The applicant states that the potential for the expansion of the college while also maintaining vast areas of open space is demonstrated in this masterplan for the school site and that the masterplan demonstrates the potential for the development capacity of the Blackrock College site to almost triple in size while articulating and protecting the existing architectural make up and architectural heritage of the site. The masterplan also provides a clear urban reading and wayfinding strategy within the immediate wider urban context. I also note the masterplan demonstrates that the potential future development of the college, while allowing for growth over the next 100 years, would still exceed the minimum 25% open space requirement for institutional land under the operative CDP. It is noted that previous masterplans were also developed in 2004 and updated in 2009 by Coady Architects for Blackrock College.

- 11.4.7. I note the planning authority's comments on the masterplan requirement in which they state that in this case although the grounds of Blackrock College are extensive, the future ability to develop these lands for school related uses needs to be assessed based on any constraints caused by the existing built heritage on site (protected structures) and also any impacts on natural heritage i.e. existing trees on site and also any potential impacts on other natural heritage including any impacts that may occur on Special Conservations Interests (SCIs) of nearby Special Protection Areas (SPAs) which may use the playing pitches on the Blackrock College lands for foraging or breeding purposes. From an examination of the indicative masterplan, I note that all the existing playing pitches are proposed to be kept as is and therefore no reduction in open space is proposed for these areas. In fact, the applicant states that the overall campus' open space, including the subject site equates to 87% of the overall area which is more than 3 times the 25% minimum required for institutions. The applicant states that even if the campus was to triple in size (adding an additional 60,300sqm of floor area), the open space remaining will be approximatively 81% of the total campus site, far more than the minimum required. I also note that the masterplan has taken account of the natural assets of a site, in addition to the built heritage in accordance with Section 8.2.3.4 (xi) and illustrates the retention of natural features such as trees on site. In addition, access to the site is maintained and it is noted that the proposed development seeks to established future public access to the site. I noted on site visit that currently access to the proposed site is closed off by security fencing. The proposed development on this site would see the opportunity for increased access and enhanced public use of the site, though I do note some concerns in relation to the legibility of the site and connection with the Blackrock College Campus have been raised by the planning authority. This is discussed further in Section 11.13 of this report.
- 11.4.8. I note that the PA is satisfied that the applicant has demonstrated that the proposal is generally in accordance with the institutional objective that applies to the lands and Section 8.2.3.4 (xi) of the Development Plan. Having considered the above requirements, I believe that the Masterplan adequately addresses the built heritage and natural assets on site, and I consider that the applicant has met the requirement for a Masterplan addressing the future development of the overall INST lands.

Material Contravention – Masterplan

- 11.4.9. The proposed indicative masterplan is an update of the masterplan developed by Coady Architects for Blackrock College in 2009. It provides a masterplan for the wider campus site when former ownership is taken into consideration, however I do note that whether or not this masterplan is to be implemented will be the choice of Blackrock College, although Libermann Trust's support of the plan is encouraging. Although agreement between the applicant and the planning authority on the masterplan is not expressly stated in the CE Report, I do note that the planning authority state that they are satisfied that the applicant has demonstrated that the proposal is generally in accordance with the institutional objective that applies to the lands and section 8.2.3.4 (xi) (which includes for the masterplan requirement to be submitted as part of a planning application on INST lands). Therefore, in this regard I am assured that if there was an issue with the submitted indicative masterplan this would have been highlighted in the CE Report by the planning authority.
- 11.4.10. In conclusion I note that the matter of the Masterplan has been raised in the submitted Material Contravention Statement (Section 8 of the Planning Report) although the applicant does not state that the proposal represents a material contravention in this regard. The planning authority have not stated that the proposal represents a material contravention in relation to the masterplan. I consider that the submitted masterplan has adequately taken account of the built heritage and the natural assets of the site, as well as any established recreational use patterns. Public access has also been taken into account. Therefore, I consider the submitted masterplan is in accordance with the requirements of Section 8.2.3.4 (xi) of the operative CDP and does not represent a material contravention of the operative CDP.

INST Objective and Open space/open character requirements including the retention of existing features/trees;

Open Space/Open Character

- 11.4.11. I note the concerns raised in both the third-party submissions and by elected members in the CE Report in relation to the interpretation of the 'INST' Specific Local Objective, and also the concerns raised by the Parks Department in relation to the potential impact on existing trees on site as a result of development.

11.4.12. Sections 2.1.3.5 and 8.2.3.4 (xi) of the operative CDP state that ‘A *minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands*’. It also stipulates that ‘*this provision must be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council*’.

11.4.13. The applicant’s Material Contravention Statement provides the following population analysis based on the requirements of development plan section 8.2.8.2 (i):

Unit Type	No. of Units	Occupancy Equivalent	Min. Open Space 15 sqm. / person	Max. Open Space 20 sqm. / person
Studios	18	27	405	540
1 bed	122	183	2745	3660
2 bed	100	150	2250	3000
3 bed	4	14	210	280
Total	244	374	5,610sqm. (0.56 ha)	7,480 sqm. (0.75 ha)

11.4.14. 25% of the proposed site area equates to 3,035sqm, 25% of the total INST designated site area (which encompasses the entire Blackrock College Campus c.24ha plus the current proposed site 1.214ha net) would equate to 63,000sqm. As can be seen from the table above the population based provision (7,480sqm) is more than the 25% requirement and therefore this should be the benchmark used for the proposed site. The applicant’s Planning Report provides a rationale for the proposed open space provision in the context of the INST objective. The applicant highlights that the open space requirement under the Institutional Land designation, as detailed in Sections 2.1.3.5 & 8.2.3.4(xi) of the Development Plan, refers to the “total site area” which refers to the overall institutional lands (in this case c.53 acres) and is not just confined to the application site (1.214 ha net). On the proposed application site a total area of 7,416.9sqm of public open space is provided within the development along with a further 1,523.58sqm of communal open space, therefore totalling 8,940.48sqm, which is in excess of the population based provision required in accordance with Section 8.2.8.2 of the operative CDP. The communal open space is

located to the north west of the site for Building A and provided at roof level on Buildings B and C. The public open space provision equates to 61% of the site area at ground floor level, and c. 74% when the communal areas are taken into account. I note that the operative CDP refers to “open space” as comprising public and/or communal open space and therefore this combined figure of 8.940.48sqm is considered appropriate for use in this case.

11.4.15. When added to the gross open space provision proposed in this development the total provision of open space across the entire Institutional Designation lands in the Blackrock College Campus will be c. 32,000 sqm or 84% of the site. The applicant states that this figure significantly exceeds the population based open space requirements in the Development Plan by between c.0.7ha and 1 ha. It is worth noting also that the proposed masterplan, as discussed previously, demonstrates also that the potential future development of the college, while allowing for growth over the next 100 years, would also ensure that the minimum 25% open space requirement is also exceeded. I note that the Parks Department of DLRCC states that they are generally satisfied that the applicant has provided above the necessary quantum of amenity space in accordance with Sections 8.2.8.2 and 8.3.8.3 of the operative CDP and welcomes the open and permeable layout of the proposal but also recommends that further discussions with Blackrock College should occur to examine the feasibility of providing pedestrian and cyclist connection/access via the northern and eastern boundaries.

11.4.16. Having regard to the quantitative analysis of open space provision and to the information regarding the future development of the school as provided in the submitted masterplan, I am satisfied that the development meets the requirements of the INST objective with regard to open space provision and taking account of the potential future needs of the school regarding any further required expansion. I therefore concur with the applicant’s assessment that the development does not materially contravene the development plan in this respect.

Recreational Amenity, Tree Retention and Boundaries

11.4.17. Policy RES5 states *‘it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the*

quantity of provision of existing open space in the general environs' (my underline emphasis added). I note 'wherever possible' in the context of this policy. With regard to recreational amenity and uses on site, in this instance, the lands would appear to have historically offered very little in the way of recreational amenity, and were fenced off from the general public, which remains the case today.

11.4.18. As outlined above the applicant considers that the provision of open space is considered appropriate and will maintain the open character of the site. In addition, they stress that a key component of the design ambition of this site, was to retain as many trees as possible, and to create a new public open space along Cross Avenue, which currently does not exist and for this reason it is proposed to remove the southern boundary walls, to open up this land for the first time to Cross Avenue and the open space on the subject site for public use. I note that several submissions raise concerns regarding the usability of this open space by the general public, however having considered the enhanced access to the site, as well as the introduction of an active frontage along Cross Avenue, I am satisfied that the proposal will enhance the availability of public open space not previously available to the general public and would not result in any net loss of recreational amenity for the wider area. In addition, given that the existing boundary wall to the south of the site has been examined and determined to be of no significant heritage value, I am satisfied that the removal of this wall will not be contrary to Policy RES5 or Sections 2.1.3.5 and 8.2.3.4 of the operative CDP.

11.4.19. In addition to the requirements outlined under Policy RES5 and the aforementioned sections of the operative CDP, the Board should also note that the overall Blackrock College Campus site is the subject of an objective 'to protect and preserve Trees and Woodlands', identified with tree symbols at various locations on the grounds. While it is noted that no specific tree symbols are identified within the red line boundary of the application site, I would consider this objective does apply to the site by virtue of its proximity and integration into the Blackrock College grounds, as well as the significant presence of existing mature trees along the southern, eastern and part of the northern boundary of the site. The site presents a unique range of mature trees which the applicant states strongly influenced and inspired the design concept of the development, with the overarching guiding principle to retain as many trees as

possible to ensure that the character of the site is one of buildings set within a tree lined setting. The applicant states that it is inevitable that site development will result in the loss of some trees. 197 no. trees are currently located on the site and the combined effects of the proposed development will see the loss of circa 25% (49 trees) of the site's tree population. According to the submitted Arboricultural Report a clear majority of these losses are poor quality category "C" trees and unsustainable category "U" trees which make up 92% of all tree losses, with good quality category "B" trees comprising only 8% of the overall losses. Many of these tree losses are positioned towards the centre of the site where their loss tends to be visually insignificant beyond their immediate environs and irrelevant beyond the boundary of the site. I also note that it is proposed to replace any trees lost with new tree planting and other supplementary landscaping around the development. While I note that the planning authority have raised significant concerns and recommended Refusal No. 4 in relation to possible impacts on the significant mature tree population within the site, in particular on the root protection areas of established mature specimens, Category B trees (916, 918, 919, 920, 935, 969) and the habitats and the ecosystem associated with them, they have raised these issues in relation to the aforementioned 'Trees and Woodlands' objective and not Policy RES5 or its associated sections in relation institutional lands in the operative CDP. The proposed landscaping and impact on existing trees on site are assessed further under Section 11.9 below, however in relation to the retention of trees and meeting the requirements of Policy RES5, I consider the applicant has demonstrated sufficient compliance.

Material Contravention – INST Objective, Open Space and Tree Protection

11.4.20. Having taken account of all the above, I am therefore satisfied that the development meets the requirement of RES5, and also meets the quantitative provision of open space on the overall Blackrock College Campus lands, as discussed above. The public open spaces also meet standards regarding sunlight and microclimate, as per the submitted Microclimate Impact Analysis and Sunlight Report, as summarised under Sections 11.5.9 and 11.7 below. I therefore consider that the proposed open space provision is acceptable both in terms of quantity and quality.

11.4.21. I therefore concur with the applicant's assessment that the development does not materially contravene the development plan in this respect. I note that the planning authority has also stated that they are satisfied that the applicant has demonstrated that the proposal is generally in accordance with the institutional objective that applies to the lands.

Residential Density and the INST Objective

11.4.22. A number of submissions have been received both from third parties and Elected Members regarding the proposed density of the development. Concerns centralise around the appropriateness of the density level for the location, which many observers consider excessive, representing overdevelopment of the site and out of character with the surrounding area. The proposed development has a stated residential density of c. 201 units per ha on a net site area of c. 1.241ha. The planning authority state that given the location of the subject site in the context of Blackrock Village and the various modes of public transport that are accessible and within walking distance of the site, they are generally satisfied that a higher density of development can be successfully absorbed at this location, however they do acknowledge that the site has a number of sensitive interfaces which require further consideration, these concerns are discussed further under Section 11.7 and 11.8 of this report below. The current section of this report will therefore examine the appropriateness of the proposed density on site only.

11.4.23. The applicant's Material Contravention Statement addresses the matter of residential density in the context of the INST objective. It notes that Policy RES5 states that average net densities 'should' be in the region of 35-50 units/ha, with higher densities to be allowed in certain instances where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. This is again reiterated in section 2.1.3.5 of the operative CDP. As outlined in the sections above I consider that the open character of the land is being retained and therefore higher densities are allowable. The development is therefore considered to be consistent with Policy RES5.

11.4.24. Section 8.2.3.2 (ii) of the operative CDP states the following in relation to 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). These Guidelines are also referenced in section 8.2.3.3 (i) in relation to design standards, which states that all apartment development shall accord with or exceed all aspects of Government Guidelines in relation to residential development. Section 5.10 of these Guidelines, which relates to Institutional lands, states that in the event that planning authorities permit the development of such lands for residential purposes, it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the quality and provision of existing or proposed open space in the area generally. In this instance, as discussed above, I consider that the open character of the overall lands to which the institutional objective relates is being retained and that adequate open space has been included within the development site and retained within the overall Blackrock College campus. There is also good quality public open space existing within the wider area i.e. Blackrock Park. Section 5.10 of the Guidelines also states that in the development of institutional lands *‘average net densities at least in the range of 35-50 units/ha should prevail and the objective of retaining the open character of the lands achieved by concentrating increased densities in selected parts (say up to 70 units/ha)’*. Although I note that the proposed development at 201 units/ha would exceed this figure, I also note by reference to the word ‘say’ in brackets that this density is a suggestion and not binding. In addition, I note that this is a guidance document for which the Board is required to have ‘regard to’ in carrying out their functions under the Planning Acts, the guidance provided in this document does not amount to a Specific Planning Policy Requirement (SPPR). Section 5.10 also states that in the absence of an LAP, any application for development on institutional lands should be accompanied by a masterplan outlining proposals for the entire landholding, which has been addressed in the subject application.

- 11.4.25. The Material Contravention Statement also refers to Policy RES3, which states that higher densities at a minimum of 50 units/ha will be encouraged within c. 1 km pedestrian catchment of a rail station, Luas line, BRT, Priority 1 QBC and/or 500 metres of a Bus Priority Route, and/or 1 km of a Town or District Centre. The subject site is located c. 900m or a 10-15 minute walk from Blackrock Dart Station which provides high frequency connections to Dublin City Centre, Malahide, Bray and

Greystones and in addition is c. 700m from the QBC along Rock Road and c. 1.25km from Stillorgan Road QBC. The applicant outlines in the submitted Planning Report that these two QBCs provide high quality frequent bus services every 8-12 minutes. The site is also within 1km or a 10 minute walk of Blackrock Village and its associated employment opportunities.

11.4.26. With regard to national planning policy, I note that the applicant considers that this is a 'Central and/or Accessible Urban Locations' with regard to Section 2.0 of the Apartment Guidelines and specifically defines it as an 'Accessible Location' under this location type within the submitted Planning Report and given the walking times and distances outlined above. I note that several third parties submit that the location does not fully correspond with the criteria listed for such a location and argue that in fact the location is an 'Intermediate Urban Location' as defined by the guidelines. Considering the location of the development which is within a c.13 minute (1km) walk of Blackrock Dart Station and c. 10 -15 minute walk to Blackrock Village which is the principle employment and services centre in the area, as well as the longer distances involved to hospitals and third level institutes, I would consider that the site does more appropriately fall with the second category of the Guidelines 'Intermediate Urban Location'. Having said this however I do note that higher density developments that may wholly comprise of apartments are identified as acceptable in these areas and therefore the proposed development would not be precluded at the current location according to the Guidelines. I consider that the delivery of residential development on this underutilised, serviced site, in a compact form with higher density, 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, which all look to secure more compact and sustainable urban development in the Dublin Metropolitan Area. In particular, the development will support several key objectives of the NPF, including NPO 2a, NPOs 3a and 3b, NPO 13, NPO 33 and NPO35, as well as supporting RSES Regional Policy Objectives RPO 3.2, RPO 5.4 and RPO 5.5 (See Section 6.2 and 6.3 of this report for details).

11.4.27. I also note the following recent permissions on lands with the INST objective within Dun Laoghaire Rathdown including:

- ABP-309807-21 Lands consisting of Kylemore SHD where permission was granted on 08th July 2021 for 255 no. residential units (7 no. houses, 248 apartments) and a childcare facility at a 2.5 ha site with a stated density of 152 units/ ha on the northern portion of the site and 65 units/ha on the southern portion).
- ABP-310138-21 Mount Saint Mary's and Saint Joseph's SHD, Dundrum Road, where permission was granted on 25th August 2021 for 191 no. apartments and a childcare facility at a 1.6 ha site with a stated density of 119 units/ha.
- ABP-309430-21 Our Lady's Grove SHD, Goatstown, where permission was granted on 3rd June 2021 for 698 no. student bedspaces on a (99 No. clusters and 19 No. studios) 2.12 ha site.

11.4.28. I consider that these decisions provide a precedent for higher densities on INST lands, with regard to national and regional planning policies.

Material Contravention - Density

11.4.29. Having regard to all of the above, I therefore consider that the proposed residential density of 201 units/ha is acceptable in principle at this location, subject to design and amenity standards, which are discussed in detail in other sections of this report. I also note that section 2.1.3.5 and Policy RES5 of the operative CDP allow for densities higher than 35-50 units/ha in circumstances where the open character of the lands is being retained, and that the development is considered to be consistent with Policy RES3. To conclude, I note that the matter of density has been addressed in the submitted Material Contravention Statement, although the applicant does not clearly state that the proposal represents a material contravention in this regard. The planning authority have not stated that the proposal represents a material contravention in relation to density. I also consider that the proposal does not represent a material contravention in relation to density. However, if the Board do consider this to be a material contravention, they may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i), (ii), (iii) and (iv). This matter is discussed further below under Section 11.18 Material Contravention.

11.5. Building Height and Visual Impact

- 11.5.1. The proposed development consists of three linear blocks, ranging in height from 1 to 9 storeys over basement level, with their narrow end elevations facing onto Cross Avenue. Building A which is located on the western portion of the site ranges in height from 1 to 5 storeys (c.16.57m). Building B, the middle block ranges in height from 7 to 8 storeys (c.27.4m) with a set back of the upper floor towards the north (rear) of the site and Building C, the eastern most building and that with the smallest overall site footprint, has a proposed height of 9 storeys (c.30.4m). The Board is referred to pages 31 and 87 of the submitted ADS, as well as submitted Proposed Contiguous Elevations (Drg. No. PP-009) which gives visual representation of proposed buildings heights relative to those existing in the immediate vicinity of the site. Building heights in this area are generally 2-4 storeys in height, with Blackrock Clinic (located to the site's northeast) being six-storeys over basement. However, to the south and west/northwest of the site it is predominantly residential, with an emphasis on medium-large sized detached and semi-detached residences set within large gardens. St. Philip and St. James' Church which possesses a tall spire (tip height c.61.7m) as part of the structure is located opposite the site, to the southern side of Cross Avenue. To the rear of this building, but within the church grounds, is Booterstown National School. There is also a 4-storey apartment building approx. 70m to the southeast of the site.
- 11.5.2. The Board should note that several third parties and Elected Members of DLRCC raised concerns regarding the proposed height of the development and its impact on the visual and residential amenities of the area. Refusal Reason No. 1 recommended by the planning authority reflects these concerns. The planning authority also consider that the development is contrary to the policies and guidelines of Appendix 9 (Building Height Strategy) of the operative CDP and the Urban Development and Building Heights Guidelines for Planning Authorities (2018) in particular the requirements of Specific Planning Policy Requirement (SPPR) 3. These matters are discussed further below.

Local Policy

11.5.3. Policy UD6: Building Height Strategy of the operative CDP requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. The Building Height Strategy is set out in Appendix 9 of the operative CDP. The proposed development site is outside of any areas that have specific provisions in relation to building height and is therefore in a 'residual suburban area' as per the Building Height Strategy. The Strategy applies a general height limit of 3-4 storeys for apartment developments at appropriate locations and allows for minor modification in height by up to 2-storeys subject to certain criteria. The applicant considers that 'upward modifiers' have been met due to the proposed legibility of the site, improvements to public realm, enhanced facilities, retention of existing large tree screening, sufficient public transport links and site size, and has outlined how they believe the proposal complies with Section 4.8.1 of the Strategy under the 'Building Height Justification' in Chapter 8 of their submitted ADS. While I consider that upward modifiers do apply to the site, I note that the proposed building heights of Buildings B and C exceed the maximum 6 storeys that would be permitted under the Strategy, as such the proposed heights are a material contravention of the height parameters as set out in the operative CDP. I have considered the issue of material contravention in Section 11.5.12 to 11.5.16 below. The merits, or otherwise, of the proposed heights are addressed in the sections that follow below.

National Guidelines

11.5.4. While the Planning Authority note that the proposal is in breach of the operative CDP, they state in the CE Report that that they are cognisant of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and in particular the need to assess any proposals under same, as per the criteria set out under Section 3 of these guidelines, titled 'Building Height and the Development Management Process' and SPPR 3. The applicant submits in their Material Contravention statement that current national planning policy is clear and united in its support for increased building height and density in order to increase residential development levels at appropriate urban locations. In this regard they highlight NPO13 and NPO 35 in particular. The applicant states that the provision of residential development at this location in blocks up to 9 storeys in height is

supported by the Building Height Guidelines which encourages increased density and building heights. While acknowledging that the proposed height of up to 9 storeys is contrary to the operative CDP they state that these policies in the development plan are currently under review and have been superseded by the Building Heights Guidelines which are National Planning Guidelines. They then state that SPPR 3 allows for development to exceed development plan policy where it can be demonstrated that it meets the criteria in the Building Heights Guidelines.

- 11.5.5. The aforementioned Guidelines describe the need to move away from blanket height restrictions and outline that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison, as would be the case in the current proposal. SPPR 3 of the Guidelines states that where a planning authority is satisfied that a development complies with the criteria under Section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. This is alongside consideration of other relevant national and local planning policy standards, including national policy in the NPF, and particularly NPO 13 concerning performance criteria for building height, and NPO 35 concerning increased residential density in settlements. Section 1.21 of the Guidelines sets out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas and section 2.3 of the Guidelines states that, while achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Section 2.4 of the Guidelines also highlights that increased building height helps to optimise the effectiveness of past and future investment in public transport services including rail, Bus Connects and walking and cycling networks.
- 11.5.6. Section 3.1 of the Guidelines requires planning authorities to apply the following broad considerations in considering development proposals for buildings that are taller than prevailing building heights in urban areas:

- *Does the proposal positively assist in securing NPF objectives of focusing development into key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*
- *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*
- *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

11.5.7. The proposed development in my opinion is consistent with Objectives 13 and 35 of the NPF which encourage increased scale and densities in settlements. The Dun Laoghaire Rathdown County Development Plan 2016-2022 and the policies and standards contained therein pre-date the issuing of the Building Height Guidelines in 2018 under Section 28 of the P&D Act, published under a commitment of the NPF to secure more compact forms of development. In principle, there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR3 and Section 3.2.

11.5.8. The proposed development is assessed against each of the criteria in Section 3.2 of the Guidelines in the table 11.1 below. In making this assessment I have had regard to the case put forward by the applicant in the submitted Planning Report, including the Material Contravention Statement. I note that the planning authority are not satisfied that the proposed development meets the criteria of Section 3.2 and I note that significant objections have been raised regarding the proposed development and its response to both the relevant city/town scale and the district/neighbourhood/street scale. I am satisfied that there is adequate documentation on file, including reports, drawings, layouts, design details, Townscape and Visual Impact Assessment (TVIA), photomontages, CGIs and submitted the Daylight and Sunlight reports, to enable due consideration on the

following matters and I have had regard to same. The assessment is also based on my site inspection dated 22nd October 2021.

11.5.9. **Table 11.1 – Assessment of Section 3.2 Criteria**

At the scale of the relevant city/town
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>
<p>The subject site is located close to three main public transport links with frequent services. These include several Dublin Bus routes including QBC routes. The nearest stop, which serves the no.17, is 170m to the east of the site on Mount Merrion Avenue. The next closest is 650m to the northeast on the Rock Road and serves nos. 4, 7, 7A, 7D, 84A, 702, 704. Another stop is located 1.25km to the south on the Stillorgan Road which serves the nos. 17, 46A, 47, 116,145,155 and 181.</p> <p>In addition to the above the applicant highlights that the planned Bus Connects scheme will provide more frequent services that will also serve the site. The S6 will provide a service every 15 minutes along Mount Merrion Avenue which will connect the site with UCD, Dundrum and Tallaght. The E1 and E2 will provide a service every 8-10 minutes along Stillorgan Road, connecting the site with the City Centre, Bray and Dún Laoghaire, and the B3 and B4 will provide a service every 15 minutes along Rock Road, connecting the site with Tyrrelstown, Blanchardstown and the City Centre.</p> <p>The nearest DART stop, which is a c.13 minute walk away, is located at Blackrock station c.900m to the north east. Therefore, in my opinion the site is well served by frequent public transport services with sufficient capacity.</p>
<i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</i>
<p>The proposed site is not within any designated historic landscape or subject to any development plan objectives relating to protected views or prospects. The only scenic designation within the study area is along Rock Road, where the objective is to “To preserve views,” where the road aligns Blackrock Park. However, the direction of these views is out towards/across Dublin Bay: the opposite direction to that of the site. There are no structures or features of historic importance such as Protected Structures or Conservation Areas located on the site and any heritage interest in the immediate vicinity are discussed under Section 11.12 below. I do note that St. Philip and St. James’ Church</p>

which is a protected structure is located opposite the site, to the southern side of Cross Avenue and a distance of 67.5m from the southern elevation with Building C.

I note the photomontage locations indicated in the Townscape and Visual Impact Assessment (TVIA). Based on the site inspection and on my knowledge of the area, I am satisfied that the viewpoints chosen are representative of views in the wider area and are sufficient for a comprehensive assessment of visual impacts of the development.

I note the site's irregular western boundary and therefore the greater setbacks proposed within the northern portion of the site (c.35m setback from the western site boundary provided at northern end of Building A). In terms of the design response, it is stated within the ADS that each building will have its own identity whilst making a strong reference to the unique site context and the existing mature trees on site. The applicant states that the design of Building A with its light screens evokes the leaves of a tree, Building B the branches and Building C the trunk. It is stated that the proposed detailing and materials have been selected to invoke a symbiosis between nature and architecture and that the screens will support a variety of climbing plants. Having regard to the overall scale of Building A, the graduated building height and varied setbacks from the western site boundary, as well as the quality of design and highly articulated facades, I am satisfied that the proposed development will not compromise the residential community of established residents to the west by reason of being visually overbearing.

The applicant has set out in detail the proposed interface with Blackrock College Campus, Cross Avenue and the interface with the access road to Blackrock College as they relate to the design and layout of the proposed development within the submitted ADS Drawings (e.g. PP201 to PP208) in conjunction with the verified views submitted. In terms of topography, the site is largely flat and contains extensive mature, deciduous tree coverage around its periphery, with grass being the dominant land cover across the site. These mature, native and non-native treelines, in tandem with those aligning the verges of Cross Avenue, indent a rich sylvan character to the site and urban surrounds, which the applicant seeks to retain as much as possible as part of the proposal. I note the concerns expressed by the Parks and Landscape services of DLRCC in relation to the potential impact of the proposal on existing trees (including their root systems) and this is addressed further under Section 11.9 below.

While I acknowledge there is a significant difference between the height proposed on the subject site and the existing structures on site, as well as the adjoining residential properties to the west, in my opinion the applicant has sought to integrate the proposed taller structures by stepping down building heights at the site's western edge and providing a step down on building B to the sites southern edge. In addition, Buildings B and C which range in height from 7 to 9 storeys are set back from the southern boundary at a greater distance (c.20m) than Building A (c.13.5m) which provides a better relationship with Cross Avenue to the south and also in my opinion the protected structure at St.

Philip and St. James' Church. The proposed buildings are also set back from these boundaries in order to protect the existing trees along the southern boundary and the residential amenities of the existing houses to the west. In addition, the tallest of the proposed structures, 'Building C', which has a reduced footprint, is located on the eastern edge of the site, abutting existing educational uses of up to 4 storeys in height (Dominican College Sion Hill) and is removed from any residential sensitivities. In addition, Building C with a proposed height of c.30.4m (OD height 53.475m) is located directly opposite the spire of St. Philip and St. James' Church which has a height of 61.7m, with this element still exceeds the proposal. In addition I believe the separation distance provided between the proposed apartment buildings and this protected structure ensures its character and setting are protected.

A Townscape and Visual Impact Assessment (carried out by suitably qualified professional) has been submitted which includes photomontages and CGI Views from 17 no. viewpoints. This report notes that while suburban in setting, there are numerous multiple storey buildings within 170m of the site, with those at Blackrock Clinic (to the north) up to six-storeys over basement in height. The highest level of visual impact significance as detailed in the LVIA was 'Moderate' at VP11 taken from the site boundary, with the nine storey Building C conspicuous in the foreground, but not from the public sphere, while approx. three quarters of the viewpoints (i.e. 13 out of 17) experienced a significance of visual impact no higher than 'Slight'. I note that four viewpoints (VP7, VP11, VP12 & VP17) from within the Blackrock College campus are less typical LVIA/TVIA receptors, as this location is not in the public sphere but within private property. While elements of the proposal will be clearly visible from points within the college campus grounds, the impact of these views is considered to be Moderate-slight / Neutral-Negative and the key consideration in this case would mainly concern any impacts on the existing architectural heritage within the campus, which as confirmed within the submitted AHIA is not considered to be significant.

I acknowledge the concerns raised by the planning authority and third parties in relation to the lack of 3D visualisations of the proposed development in a 'no-leaf' scenario, which is regrettable, however, given the setbacks involved, and the fact that a visual break from the development will still be present by virtue of the existing tree forms and the proposed design of the building blocks in terms of their form, scale and elevational finishes, in my opinion the proposed buildings will provide for visual interest from Cross Avenue and the proposed landscaping scheme will add to public open space in the area and integrate the development well into the vicinity. While the PA state that reduced building heights should be provided, with the recommended omission of 2 no. floors from Buildings B and C, I would not concur with same and consider the site capable of dealing with the proposed heights. The TVIA considers that the proposed development is an appropriate contribution to the built fabric of this suburb that will not result in any significant negative townscape or visual impacts and I would agree.

On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.

The proposed apartment blocks vary in height and reduce in height to the west to respond to the two-storey scale of adjoining residential development. The site is to be opened up to the south to create visual interest. The proposed development focuses on placemaking and incorporates new landscaped amenity areas, which will also be publicly accessible from Cross Avenue. This area would not have been previously accessible to the public. The proposed development will provide for c. 7,731sqm of public open space, or c. 63% of public open space on this site of 1.5454ha. Concerns have been raised in third party submissions in relation to the use of this area by the general public, however I would highlight to the Board that the public amenity space will be accessible and open for use and therefore its use by members of the general public will be their choice. I note that no access/connection has been provided along the northern boundary of the site which I believe could further enhance permeability through the Blackrock College Campus and also provide improved and more efficient pedestrian connections to public transport. This issue has also been raised in the CE Report. It is important to note that this area (Blackrock College) is outside of the current site boundary and under separate ownership. As the Blackrock College grounds are in private ownership agreement between the developer and this establishment would be required, I would see merit in this issue being investigated further by the developer. I therefore consider, if the Board is of a mind to grant permission that a pedestrian access point on the northern site boundary should be shown to facilitate future provision subject to the appropriate consents. Provision of these links in my opinion will greatly improve accessibility and linkages in the area, increase their usage and by association security through active usage.

At the scale of district/ neighbourhood/ street

The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.

Several submitted third party observations contend that the proposed development fails to respond to the surrounding natural and built environment nor does it make a positive contribution to the neighbourhood and streetscape. I would disagree with this opinion. The proposed apartment blocks vary in height, and in my opinion it is clear why such a height strategy is proposed, with a reduction in building height along sensitive boundaries to the west to respond to the two-storey scale of adjoining residential development. Currently, the public realm along Cross Avenue is very poor quality, with dead frontage largely due to a 160m solid boundary wall running along the street. The applicant

proposes to remove this wall, while also retaining as many trees along this boundary as possible to create a new 'forest' park that will be accessible to the public.

Green roofs and roof gardens, as well as significant volumes of additional planting is proposed in response to the existing sylvan environment. I have also considered the existing context and layout of the development in addition to its design, which is varied in form with setbacks, varying heights and use of a variety of materials. By opening up the site and providing enhanced public open space in the area, I consider the proposal will make a positive contribution to the amenities of the area for existing as well as future residents. Overall, I am satisfied that the proposal responds to its overall natural and built environment, particularly to the lower density residential development to the west and will make a positive contribution to the urban neighbourhood and streetscape.

The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.

The design comprises of 3 no. separate apartment blocks ranging in height from 1 to 9 storeys. The apartment blocks have been carefully designed to avoid long uninterrupted walls of buildings and to provide visual interest through a series of steps in the building line to the east and west, ensuring the mass of the block is broken up and that there is no monotonous, overbearing long wall within the development. I consider the use of use of various materials, the incorporation of green roofs and roof gardens on Buildings B and C and use of recesses create a varied and interesting building design.

The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009).

The applicant proposes to remove the southern site boundary and create a new accessible public open space which will provide connectivity with the wider urban area. The applicant in their submitted Planning Report from page 67 to 74 provides evidence of how the proposed development meets the 12 no. criteria set out in the Urban Design Manual. The applicant states that the scheme will provide a variety of open spaces that includes public, communal, and private amenity spaces for a range of different ages including children, adults, and the elderly. The open areas will include provisions for active recreation, natural play areas, as well as more intimate and formal landscaped spaces. All of the ground level open spaces are overlooked by the residential units offering great passive surveillance. The site does not contain inland waterway/ marine frontage.

The issue of potential flood risk is assessed under Section 11.14 below, which concludes with regard to the Flood Risk Management Guidelines that the site is entirely located in Flood Zone C and that no significant flood risk arises at or as a result of the development.

The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner

It is considered that the proposed development integrates cohesively into the existing environment by gradually stepping up the building heights. In addition, the proposal seeks to open up the development site for use by the public and within the site, wayfinding is ensured through the clear paths and routes designed through the site. As highlighted previously I believe that further legibility through the site could be provided by incorporating an additional access point on the northern boundary, however I acknowledge that as this is private land and further agreement with Blackrock College would be necessary. Overall, however I am satisfied that the proposed development makes apposite contribution to legibility.

The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.

The proposed development will provide a mix of studios, one bed, two bed and three bed units that will add to the mix of existing housing typology in the area. In addition, the proposed development will provide a mix of uses to serve the residents including a co-working space, a fitness area and a dining area.

At the scale of the site/building

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.

In support of the proposal the applicant has submitted a 'Daylight Report' and a 'Sunlight Report'. The applicant states that the proposed buildings have been carefully considered to maximise natural light into the proposed units and open spaces while also integrating into the existing urban environment. Compliance with BRE 209 and BS8206 is achieved to a satisfactory level, and the amenity of existing residents and future residents is reasonably addressed and maintained. Sections 11.7 and 11.8 refers. I accept that the development will change the outlook from adjacent residential properties, however this will be the case of any high-density development of these zoned and serviced lands, in line with national planning policy.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning

for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'

Full compliance with BS 8206 is achieved in 90% of the room's evaluated (519 rooms out of 578). There are just 22 no. rooms in total which do not fully comply with the daylight provisions of the guidelines. These units are located at the ground and first floor or on the internal step of the building cranks. While these units are failing, it relates to the provision of balconies for all of the units. The applicant states that if no balconies were provided all of these units would pass. It is therefore considered that the benefit of a balcony, in the form of private amenity space for these BTR apartments (which is noted under the 2020 Guidelines, could be proposed without private balconies), outweighs the slight reduction in daylight for a small number of rooms within the overall development. I am satisfied that the submitted Daylight and Sunlight reports are sufficient to assess a development of the scale proposed. Overall, I consider that that the applicant has had appropriate and reasonable regard to BRE 209 and BS 8206, and that the amenity of existing residents and future residents is satisfactorily addressed and maintained. Section 11.7 and 11.8 below refer in detail.

To support proposals at some or all of these scales, specific assessments may be required and these may include: Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.

A Pedestrian Comfort CFD Analysis for the site has been submitted. This study investigates the potential impact of wind movement around the proposed development and specifically analyses the roof terraces, balconies, pedestrian areas and amenity areas. It finds that many balconies show good results for the sitting comfort criterion and identifies that some are marginally above the threshold for the sitting comfort criterion, however there are no recommendations for alterations to the balconies as a result of the marginal exceedance of the sitting criteria in some instances. Similar to the balconies, the roof amenity spaces on Buildings B and C show some areas exceeding the sitting criterion threshold of 4m/s for more than 10% of the year, however, there is good compliance with the standing criterion where the threshold is 6m/s. Again, this report does not require any mitigation measures given the marginal nature of the exceedance. The courtyard sitting results are marginally above the 4m/s threshold for sitting comfort criterion but is compliant with the standing comfort criterion of 6/s and therefore, again is marginal and no mitigation measures are required.

The report therefore confirms that Lawson's criteria for sitting and standing comfort and walking on the site has been met in terms of balconies, roof terraces and ground floor amenity areas. I consider the report and conclusions reached satisfactory. Section 11.7 refers.

In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.

An AA screening, NIS, EclA and Bat Survey have been submitted. Table 7b of the submitted EclA states that the proposed development is surrounded by tall trees within a suburban environment and it would not be expected that there would be a significant potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision of sensitive birds species. The NIS concludes that no adverse impacts are likely on any designated Natura 2000 sites or their associated qualifying interests or their conservation objectives (see Section 13 below for further details and Inspector's assessment). In relation to bat species the applicant acknowledges that artificial lighting will impact at lower level locations but foraging would be expected to continue at a higher tree level. I note the additional comments from the Biodiversity Officer of DLRCC and suggested conditions. The NPWS raise concerns in relation to a lack of data in relation to possible bat roosts and badger setts on site and the need for more surveys and the requirement for a bat friendly lighting scheme. Conditions to address these concerns are recommended. Section 11.15 of this report refers.

An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.

The applicant states that the proposed development will not remove any telecoms or other physical infrastructure from the area, though no detailed examination of same appears to have been submitted with the application. However, given the existing screening provided by the mature trees on and surrounding the site as well as the proposed building height max. c.30m, I am satisfied that the proposal will not interfere with any important telecommunication channels.

An assessment that the proposal maintains safe air navigation.

The applicant states that the subject site is not within a flight path and is therefore not expected to impact air navigation. Having regard to the location and overall height of the proposal I am satisfied that safe air navigation will be maintained.

An urban design statement including, as appropriate, impact on the historic built environment.

An Architectural Design Statement setting out the design rationale for the proposal has been submitted. An AHIA has also been submitted and photomontages and a TVIA, all of which in my opinion demonstrate that this development is appropriate to its context and will not have a detrimental impact on the wider area or indeed the historic built environment.

I note that several third parties have stated in their submissions that the applicant has failed to show how the design response complies with the criteria set out in the Urban Design Manual and the lack of clarity provided in the submitted ADS. In relation to this I would highlight to the Board that the applicant has in fact provided evidence of how the proposed development meets the 12 no. criteria set out in the Urban Design Manual in their submitted Planning Report from page 67 to 74. I consider this information satisfactory.

Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.

An SEA for the development is not required, however I note that an SEA of the operative CDP has been previously carried out and informed the adopted plan.

An AA Screening and NIS, Ecological Impact Assessment Report and EIA Screening have been prepared in respect of the proposed development (Section 13 refers).

The EIA screening submitted confirms that an EIAR is not required for this site (Section 12 refers).

11.5.11. I consider that the criteria above are appropriately incorporated into the development proposal and on this basis that SPPR3 of the Building Height Guidelines can be applied. I consider the site is of sufficient scale to determine its own character and I consider the contemporary design proposed to be of a high quality, which will add to legibility in the area and contribute to the public realm at this location. While I note the character of the area is predominantly low rise two storey dwellings, this area is evolving and comprises a mix of apartment developments (existing and permitted – see Section 4 above) and other higher rise structures to the southeast and to the northeast (Blackrock College buildings and Blackrock Clinic - 6 storeys over basement) of the site and I do not consider the proposal will detract from the predominantly suburban form of development in the area. I consider the proposal will provide for a strong well-designed development at this accessible and serviced site, and the building height proposed positively assists in securing NPF objectives, fulfilling targets related to the delivery of compact consolidated growth within the footprint of existing urban areas.

Material Contravention – Building Heights

11.5.12. The applicant acknowledges that the proposed development materially contravenes the operative CDP in relation to height and has set out a justification for same in their Material Contravention Statement, referencing national policy and guidelines in this regard. The planning authority have also stated in the CE Report that the proposal

would be in breach of the height limits prescribed for residual suburban areas in the operative CDP, notably in the case of Buildings B and C. While I would consider that the upward modifiers as outlined in Appendix 9 of the operative CDP would allow for an increase in height to 6 storeys, and therefore Building A which is proposed at 5 storeys in height would be considered acceptable, I am of the opinion that the remaining two Building Blocks B and C ranging in height from 7 to 9 storeys represent a material contravention of the operative CDP.

11.5.13. As has been stated above, a Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with, amongst other items, the issue of height. Under the Planning and Development Act 2000 (as amended), it is open to the Board to grant permission in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of development and permissions granted in the vicinity since the adoption of the development plan. I am of the opinion that a grant of permission that would materially contravene Appendix 9 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, on the following basis.

11.5.14. In terms of section 37(2)(b)(i), I note that the current application, which provides for 244 BTR residential units, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I also note the potential for the proposal to contribute to the achievement of the government policy to increase the delivery of housing and to facilitate the achievement of greater density and height in residential development in an urban location close to public transport and centres of employment. The NPF fully supports the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. As referenced previously this is supported under National Policy Objectives 13, 33 and 35 of the NPF. I consider the current site to be one such suitable site and I consider that the proposal will aid in addressing housing

shortages in a principal urban area, which has been highlighted in the national, regional and local planning policy context.

- 11.5.15. In relation to section 37(2)(b)(iii), I note the Building Heights Guidelines for Planning Authorities (December 2018), which provides a policy basis for increased building heights at appropriate locations. Specific Planning Policy Requirement SPPR 3(A) of the Guidelines provide that permission can be granted where the height of a proposed development is not consistent with a statutory development plan in circumstances where the planning authority is satisfied that the performance criteria specified in the Guidelines are met. I have had particular regard in assessing this proposal to these development management criteria, as set out in Section 3.2 of these Guidelines, and outlined in Table 11.1 above and I am satisfied that the criteria listed are appropriately incorporated into the development proposal.
- 11.5.16. To conclude this point, I draw the attention of the Board to the fact that the applicant considers the proposal to represent a material contravention in relation to height and has, in my opinion, adequately addressed the matter within the submitted Material Contravention Statement. The planning authority as outlined in the CE Report also consider that the proposal would result in a breach of the height limits prescribed in the operative CDP, though I note they have not specifically stated that this is considered a material contravention of the plan. The planning authority have stated express concerns in relation to non-compliance with the Building Height Guidelines also. I myself consider that the proposal represents a material contravention in relation to height. Having regard to all of the above, I am satisfied in this regard and I consider that it is open to the Board to grant permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of application and national policy guidance in this regard.

11.6. **BTR, Housing Mix and Tenure**

- 11.6.1. Many third-party submissions state concerns about the proposed Build to Rent (BTR) model, stating that it is not appropriate that 140 units or 57% of the development will be one bedroomed or smaller. In addition, there are concerns that the proposed BTR development would produce units at unaffordable rents and also would not contribute to a sense of community in the area. The planning authority in

their CE Report does not state any objection in principle to BTR development at this location.

- 11.6.2. Section 5 of the Apartment Guidelines provides guidance on BTR. The applicant's Planning Report includes a rationale for BTR development at this location, which considers available socio-economic data and the demographics of the area. The Local Context/ Justification Report which accompanies the application states that *'Cross Avenue is located within a catchment area whose demographic composition is ideally suited to the BTR proposition' and 'The Blackrock Local Electoral Area has a demographic profile weighted towards single households and couples, in addition to families, which matches the target BTR market and indicates a requirement for a greater proportion of smaller unit sizes, as reflected in the proposed unit mix for Cross Avenue and evidenced in comparable BTR schemes located in the Dublin area'.*
- 11.6.3. I am satisfied that the development meets the requirements of SPPR 7 of the Apartment Guidelines with regard to BTR development. The application is advertised and adequately described in the documentation on file as a BTR development. The application includes a Draft Section 47 Agreement between the developer and the planning authority, which specifies that the development shall remain owned and operated by a single entity for a period of 15 years from the date of permission and that no individual residential units shall be let or sold separately during this period. I note that the planning authority recommend the draft legal covenant be amended by way of condition to 15 years from date of 'occupation' of development rather than the date of the 'grant of planning permission' as detailed in the draft legal covenant. If the Board are minded to grant permission and are in agreement with the planning authority, this can be addressed by way of condition.
- 11.6.4. I note the application also provides proposals for resident support facilities and resident services and amenities, which I consider acceptable and in line with SPPR 7(b). In line with SPPR 8 reduced car parking is proposed as part of this development, given its proposed use as a BTR and also its proximity to public transport. I note that the planning authority, elected members and third parties have raised serious concerns in relation this. I have addressed these issues further under Section 11.13 below.

11.6.5. Overall I consider that there is ample justification for BTR development at the subject site, having regard to the location of the site close to employment centres and beside high quality public transport facilities. The proposed residential type and tenure will provide a viable housing solution to households where home-ownership may not be a priority and will provide a greater choice for people in the rental sector. A detailed assessment of the proposal against the specific policies of the Apartment Guidelines relating to BTR developments is contained in Section 11.7 below.

11.7. Future Residential Amenities/Residential Standards

11.7.1. This section assesses the quality of the proposed residential scheme and the standard of residential amenity afforded to prospective occupants, with reference to the proposed mix of units; resident support facilities and amenities; floor areas; ceiling heights; aspects; private amenity space; communal amenity space; micro-climatic factors; daylight and sunlight; and privacy. At the outset, I would highlight that the 'Advisory Note' contained in Section 8 of the operative CDP acknowledges that the standards of the Apartments Guidelines supersede those of Section 8.2.3.3. (i), (ii), (v), (vii) and (viii) of the Development Plan, and that the SPPRs set out in the Apartments Guidelines take precedence over the standards and specifications as set out in Section 8.2.3.3 of the Development Plan.

Unit Mix

11.7.2. The proposed development is a Build to Rent development which provides the following mix of 244 residences comprising - 18 no. studios (7%) - 122 no. 1 bed units (50%) - 100 no. 2 bed units (41%) - 4 no. 3 bed units (2%). The need for a wider mix of housing and apartment types is recognised under the operative CDP with Policy RES7 acknowledging that many of the new households that will form in the County during the period of this Development Plan will be below the current average size, whilst also including the objective that apartment developments contain an acceptable proportion of larger flexible units. Section 8.2.3.3(iii) of the Plan also states 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 note that the planning authority have raised concerns in relation to the predominance of 1 and 2 bed units as have several third-party observers. As proposed, the development comprises 50% one bed units and 7% studios, therefore, it may be determined that

the proposal materially contravenes the development plan in terms of unit mix and the applicant acknowledges in their Material Contravention Statement (page 107) that the scheme is contrary to the development plan standard. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. I also note that SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development and, as acknowledged in the Development Plan 'Advisory Note', such SPPRs shall take precedence.

Unit Mix – Material Contravention

- 11.7.3. In summary, I am satisfied that the units and overall development is such as would accommodate a range of age cohorts and household types, including downsizing and freeing up underoccupied larger units in the vicinity, all of which is appropriate in terms of achieving a sustainable mix of household sizes and types. While I note the comments contained within the submissions and from the planning authority, I am satisfied that the proposed development meets the requirements of SPPR 8 of the Apartment Guidelines, 2020 (as referred to in the advisory note of Chapter 8) and on this basis, I consider that the proposed BTR housing mix is acceptable given the larger mix of alternative residential unit types in the vicinity. I consider that the operative CDP provisions relating to unit mix (Section 8.2.3.3(iii)) apply "generally" and not in a mandatory way. Accordingly, I do not consider that the proposal materially contravenes the operative CDP in this regard. I also note that the planning authority have not specifically referred to the development as materially contravening the plan with regard to unit mix. However, notwithstanding the Advisory Note cover page of Chapter 8 of the operative CDP, the Board may still determine that the proposed development would give rise to a material contravention of the development plan. In this regard, I consider that it is open to the Board to grant of permission in this instance and invoke section 37(2)(b)(i), (ii) and (iii) of the Planning and Development Act 2000 (as amended).

Compliance with other standards

- 11.7.4. A Housing Quality Assessment has been submitted as part of the application which indicates that all apartment floor areas that meet the requirements of SPPR 3. The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% does not apply to BTR schemes.
- 11.7.5. In line with SPPR 4, 56% of the proposed units are dual aspect which the applicant states exceeds the requirements for 'central accessible' sites such as this, which would normally require 33%. However, having reviewed the location of the proposed development, as previously outlined under Section 11.4.26 above, I would not consider that the development location would qualify as a 'central' location and instead is better aligned with the criteria for an 'intermediate' location. In suburban or intermediate locations, the Guidelines state that it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme, I can confirm that this has also been satisfactorily met in the current proposal.
- 11.7.6. The proposed development is in line with SPPR 5 which requires that a minimum floor to ceiling height of 2.4m with ground floor units required to have a minimum of 2.7m floor to ceiling height. SPPR 6 specifies a maximum of 12 apartments per floor per core, I note the proposed development does not exceed 9 per core.
- 11.7.7. SPPR 8 (ii) provides that flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 of the Guidelines. I note however that the proposed storage and private amenity spaces (balcony/terrace) do achieve the requirements as listed under sections 3.30, 3.31, 3.37 and 3.39. The applicant states on page 125 of their submitted Planning Report that the benefit of having the private open space associated within these BTR apartments is considered to be of significant benefit to the residents and it was decided to provide an area of private open space in accordance with these guidelines for each apartment.
- 11.7.8. Having examined the details of the scheme and the submitted drawings I am satisfied that the development meets the quantitative requirements of the Apartment Guidelines for BTR development.

Communal Open Space, Support Facilities and Amenities

- 11.7.9. Section 5.5. of the Apartments Guidelines states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. The provision of such facilities contributes to the creation of a shared environment where individual renters become more integrated and develop a sense of belonging with their neighbours in the scheme. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as ‘resident support facilities’ and ‘resident services and amenities’.
- 11.7.10. Residents’ communal open spaces are located on the rooftop of buildings B & C, taking advantage of the views of the Dublin mountains and the sea. The communal open space for Building A is located at ground floor level at the northern western corner of the site to mitigate any noise or visual impact on the neighbouring properties to the west. The development may be considered as follows, with regard to the communal amenity space requirements set out in Appendix 1 of the Apartment Guidelines:

Unit Type	No. of Units	Required Communal Amenity Space Provision
Studios	18	4 x 18 = 72
1 bed	122	5 x 122 = 610
2 bed	100	7 x 100 = 700 sq.m.
3 bed	4	4 x 9 = 36 sq.m.
Total	244	1,418 sq.m.

- 11.7.11. The proposed communal open space provision of 1,523.58 sq.m. is well in excess of the above requirement, notwithstanding that SPPR 8 (ii) allows for flexibility in relation to the provision of communal amenity space as set out in Appendix I, on the basis of the provision of alternative compensatory support facilities and amenities. I also note that section 5.11 of the Apartment Guidelines provides that the nature and extent of the resident services and amenities serving BTR developments may be agreed by the developer and the planning authority having regard to the scale, intended location and market for the development.
- 11.7.12. The applicant’s Planning Report (page 66) details the breakdown of internal communal amenity space proposed which includes for a total of 733.4sqm and

includes for lobby and café, concierge, co working area, parcel lockers, fitness area, multipurpose studio and pet wash facilities amongst others. These services are to be provided on the ground floor of Building A and B and the 8th floor of Block C. I note that no childcare facilities/creche is to be provided as part of the development and that this was raised as an issue by the planning authority. I discuss this issue further under Section 11.11 below.

- 11.7.13. Having regard to the ADS, to the landscaping proposals, to the Sunlight and Daylight Reports and to the Pedestrian Comfort CFD Analysis, I consider that the internal and external communal spaces within the development have a high standard of design and layout and will adequately serve as amenities for residents of the development. The proposed quantitative and qualitative provision of residents' services and amenities is therefore satisfactory.
- 11.7.14. The proposed communal waste storage for Building A, B & C is located on the basement level, titled "Bin Store" on the submitted floor plans and waste management is addressed in the Operational Waste & Recycling Management Plan. The application includes a Building Lifecycle Report, as required by the Apartment Guidelines, which details the property management company and their role. A detailed Operational Waste Management Plan may be required by condition. These are all generally in accordance with the guidance in the Apartment Guidelines for BTR development and are acceptable.
- 11.7.15. The proposed open spaces comprise play equipment and seating for gathering outdoors with areas located throughout the scheme, and easily accessible to all future residents and passively supervised, being overlooked by the various apartment blocks. The submitted Landscape Design proposal includes a '*Play+Exercise Strategy*' (page 24), which outlines the variety of play areas proposed and highlights that these areas are open to proposed residents as well as the general public. In particular, I note the inclusion of several exercise areas, a larger children's play area on the north-western section of the site, nature walks, an integrated exercise loop which runs around the perimeter of the site and also a 'dog park' along the eastern boundary. While I note the concerns raised by third parties regarding the useability of the site by the general public, I do not believe these concerns are merited given that all of the site will be accessible to the public and given the variety of amenities that would be available on site. The development

represents a design solution which takes account of existing features on site and provides areas of useable open space both centrally and peripherally. It is worth noting also that the existing situation on site sees the entire site closed off from public access and while I acknowledge that the proposed buildings by virtue of their location will see a significant portion of the site which is currently open space largely developed, the proposal also seeks to retain pockets of this open space provision between the proposed blocks and also centrally through several larger linked areas. The Landscape Department of DLRCC have raised some concerns regarding the size of proposed play items and the ability of same to fit into the designated play areas. They have requested that if permission is approved a final design proposal is submitted for approval by the authority. Following consideration of the above, I am satisfied that an adequate provision of communal amenity space has been provided and that detailed plans for same can be addressed by way of condition.

Overlooking and Separation Distances

- 11.7.16. Many of the observers submissions refer to the issue of overlooking between apartments, with consequent impacts on future residents' amenities. The third parties state that the c.17 m distance between the apartment blocks at some locations is not in accordance with development plan section 8.2.3.3 (iv), which requires 'acceptable separation distances' between blocks and states: '*The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable*'.
- 11.7.17. I consider that the above policy statement allows for some flexibility in the interpretation of the 22 metres standard, and I therefore consider that the proposed development does not materially contravene the development plan in this regard. I note that a separation distance of 22 metres is generally achieved between blocks, however there are pinch points within the development where this distance is reduced. These points occur between Buildings A and B and separately between Buildings B and C. The applicant states that in these cases this is proposed in favour of providing visual interest and high-quality architectural design. The applicant states that undue overlooking between units is also addressed through careful orientation

of primary windows and that this is considered in accordance with NPO 13 of the NPF which promotes performance criteria over rudimentary numerical standards.

11.7.18. As can be seen in the ADS, where the distance between buildings is reduced to less than 22m, privacy is ensured through the appropriate use of screens or frosted glass e.g. between apartments B86 and C57. Moreover, the dual aspect bedrooms in corner apartments will have frosted glass in the facade facing Building C. This approach ensures appropriate levels of privacy, while also ensuring appropriate levels of access to daylight or sunlight. The applicant also states in their ADS that balconies within close proximity to each other will use frosted glass panels to maintain tenant privacy e.g. glass panel proposed between apartments A-34 and A-36. I note that the planning authority has raised concerns regarding same and has stated that they believe a greater number of side balconies should use frosted glass panels to protect the privacy of residents. I would agree that opaque glazing should also be used on the side panels of a greater number of balconies across the buildings given their proximity to one another and the potential for overlooking within the development. I consider that these matters could be addressed by way of condition should the Board be might just to grant permission.

11.7.19. While I acknowledge that separation distances are below the 22m outlined in the operative CDP, I would highlight that national policy and guidelines allow for a greater flexibility in this regard, in particular I note that the NPF signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes and that Sections 2.23 and 2.24 of the Apartment Guidelines (Dec 2020) in particular note that *“general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location”* and that *“it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland’s cities”*. In the case of the current development, I do not believe that the proposed distances between blocks will reduce the residential amenities of future occupants to any significant level as a result of overshadowing and lack of available light, and this is evidenced in the results of the submitted Daylight and Sunlight Reports. In my opinion the separation distances proposed still allow for a higher density development

on this urban site without compromising the privacy or quality of residential amenity for future occupants.

Daylight and Sunlight

11.7.20. 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'. SPPR 3 and Section 3.2 of the Building Height Guidelines states that where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and/or an effective urban design and streetscape solution. The Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards. I note that the applicant's submitted Daylight Report and Sunlight Report rely 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.

11.7.21. I note also that the Daylight Report refers to 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 this assessment and the relevant guidance documents in this case remain those referred to in the Urban Development and Building Heights Guidelines, i.e. BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I have considered the applicant's Daylight and Sunlight Reports as part of my assessment and I 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 that three methodologies were employed by the applicant in their evaluation, namely:

- Average Daylight Factor (ADF)
- Daylight Distribution – No Sky Line (NSL)
- Annual Probable Sunlit Hours (APSH)

Internal Daylight and Sunlight - ADF

11.7.22. In general, 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 ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined living/kitchen /dining (LKDs) layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

11.7.23. The proposed apartments have combined LKDs, and the applicant's analysis applies ADF target values of 2% to the combined LKDs, which is satisfactory based on the higher ADF values being applied to rooms with a combined function, as discussed above. The applicant has stated that given the typical layouts for apartment designs, where the kitchen is located at the back of the living space, with usually no direct access to daylight, it is challenging to achieve the 2% ADF and also that given the scale and density of this development it is almost certain that a small number of rooms will fall below the baseline BRE targets. The rooms that do fall below the target criteria are all shared LKD spaces that are located in partly shaded areas of the building and below overhanging balconies, the inclusion of which was considered by the applicant to be more beneficial to potential occupants of the space. The applicant goes on to further state that as all of the LKD spaces are designed as open plan areas and in all cases the kitchens/food preparation areas are located at the rear of deep plan space, it is intended that they will be predominantly artificially lit given their location from the main window wall. The kitchens are designed as galley

kitchens and by design are not intended to be an "occupied" space over a long period of time. The applicant states that where floor plans indicate galley type kitchen areas to the rear of LKD rooms and these fail to meet BRE guidelines, they have removed the kitchen area from the daylight calculations, and assessed the remaining living/dining space against BRE target values (see Figure 5 of Daylight Report). These areas are identified in the results tables in Appendix 1 of same report (see column "ADF% Galley Kitchen Discounted").

11.7.24. The submitted Daylight Report's analysis of the proposed apartments found that 90% of the rooms evaluated (519 rooms out of 578) will achieve full compliance with the BRE minimum recommendations against the ADF of 1% for bedrooms and 2% for rooms such as LKD spaces. Of the 244 spaces with combined activities (LKD) 185 meet or exceed BRE recommended minimum daylighting levels, equating to 76%. A further 50 will achieve 2% when the galley kitchen is omitted from the evaluation while the remaining 9 will achieve the BS 8206 ADF of 1.5% for living spaces, also with the galley kitchen omitted, indicating all spaces achieve adequate daylight levels.

11.7.25. The applicant states in the Daylight Report that the assessment has strictly adhered to the ADF target values of BS 8206 in this evaluation which states that "where one room serves more than one purpose, the minimum ADF should be that for the room type with the highest value". However the ADF determines the amount of daylight in a room as a whole and does not indicate the levels of daylight in the different areas of a large combined area such as the LKD area in a typical apartment. While average daylight levels are predicted to fall short of advisory minimums in 59 of the combined LKD room's results indicate that adequate levels of daylight will be available in all of these rooms, based on them achieving or exceeding the 1.5% advised for living rooms. The BRE Guidelines (Paragraph 2.1.14) state in respect of galley kitchens that if these spaces are not receiving direct daylight they should be adjoined to a well-lit living area, which the applicant stresses has been demonstrated as part of the assessment. In addition, balconies and high quality landscaped external amenity spaces are provided. Sections 5 and 6 of the submitted Daylight Report expand on this approach. The lower level of daylight in these rooms is attributed to the combination of the plan layout, balconies above and shading from

stepped areas of the building. In terms of Buildings A, B and C the following results are noted:

Building A
<ul style="list-style-type: none"> • All 95 (100%) bedrooms simulated achieve or exceed the BS 8206 average daylight factor of 1% for bedrooms; • 42 (62%) of kitchen/living/dining spaces simulated achieve or exceed the BS 8206 average daylight factor of 2% for spaces serving more than one purpose. • Of the 26 adjusted living/dining areas where the galley kitchen was removed 22 will achieve a minimum 2.0% average daylight factor. All 26 adjusted living/dining areas will achieve or exceed the BS 8206 average daylight factor of 1.5% for living spaces (See Appendix 1 of submitted report for a full set of results).
Building B
<ul style="list-style-type: none"> • All 129 (100%) bedrooms simulated achieve or exceed the BS 8206 average daylight factor of 1%. • 71 (72%) kitchen/living/dining spaces simulated achieve or exceed the BS 8206 average daylight factor of 2% spaces serving more than one purpose.; • Of the 28 adjusted living/dining areas where the galley kitchen was removed 23 will achieve a minimum 2.0% average daylight factor. All 28 adjusted living/dining areas will achieve or exceed the BS 8206 average daylight factor of 1.5% for living spaces. (See Appendix 1 for a full set of results)
Building C
<ul style="list-style-type: none"> • All 116 (100%) bedrooms simulated achieve or exceed the BS 8206 average daylight factor of 1% for bedrooms; • 72 (94%) kitchen/living/dining spaces simulated achieve or exceed the BS 8206 average daylight factor of 2% for spaces serving more than one purpose. • All 5 of the adjusted living/dining areas where the galley kitchen will achieve a minimum 2.0% average daylight factor for spaces with more than one purpose.

11.7.26. Having reviewed the detailed analysis provided by the applicant I am satisfied that the applicant has clearly identified the rooms within each apartment building that do not fully comply with the requirements of the daylight provisions. In particular, I note the reduced ADF available which fall below the ADF of 2% even when the galley

kitchen is removed as part of the assessment. In Building A sub 2% ADF is predicted in the LKD of Apartment A-07, A-16, A-18, A-20, A-37 all of which are located on the ground, first and second floors. In Building B Apartments B-07, B-20, B-21, B-23, B-33, B-34 fall below the 2% ADF for LKD areas when the galley kitchen is removed from assessment and I note that none fall below an ADF of 2% for Building C. However, having noted the aforementioned I do acknowledge that all those LKD rooms that fall below the ADF of 2% when galley kitchens are removed still achieve an ADF of 1.5%.

11.7.27. Therefore, according to the information provided in the assessment in the Daylight Report over 76% of the LKD rooms achieve 2% ADF and when the galley kitchen is removed 100% achieve the alternative as proposed by the applicant of 1.5% ADF. All bedrooms achieve the required BS 8206 ADF of 1%. In accordance with the Building Height Guidelines in terms of compensatory designed solutions the Daylight Report purports that the building massing has been designed to maximise light and every effort has been taken to design these units to maximise daylight within the units. The orientation of the buildings has been designed to ensure that most apartments have a westerly, southerly or easterly aspect. In addition, there are no single aspect north facing apartments proposed and 56% of apartments within the proposed development are designed as dual aspect and glazing has been increased to maximize daylight. The internal layouts have also been designed to locate the kitchen living spaces in the best location to maximize daylight within the space. In addition, balcony locations have also been considered to allow more sunlight into the units. It is stated in the report that the design team has sought to find an acceptable compromise between the need to maximise daylight levels and other relevant factors such as density, building form, overheating risk, privacy and provision of balconies. The report also states that should full compliance with the higher target value be sought design changes would be needed such as the removal of balconies or the reduction of unit sizes. Such measures could reduce the quality of living within the proposed units to a greater degree than the improvements that would be gained with increased ADF values.

11.7.28. With regard to the detailed results contained within the Daylight Report, I am satisfied with the veracity of the results. I also note that the higher 2% ADF is more appropriate in a traditional house layout, and that in apartment developments, it is a

significant challenge for large open plan LKD rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Often in urban schemes there are challenges in meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape and that an alternate 1.5% ADF target is generally considered to be more appropriate. Having regard to the information outlined in the scheme above where the level of compliance with the ADF target of 2% is 76% or with the alternative ADF target of 1.5% applying to adjusted living/dining areas (where the galley kitchen was removed) is 100%, and noting also that 84% of adjusted living/dining areas (where the galley kitchen was removed) achieve an ADF of 2%, and that an ADF of 1% for bedrooms is achieved in 100% of rooms, I consider all these results to be in reasonable compliance with the BRE standards, in particular noting that the BRE standards allow for a flexible and reasonable alternative for ADFs, and which in any event LKD areas are not specifically stipulated in the BRE guidance. Also, I note that SPPR3 allows compensatory proposals where non-compliance is proposed. Having regard to the proposed density and urban location, I do not consider the shortfalls significant in number or magnitude. I have also had regard to the need to develop sites, such as this, at an appropriate density, and, therefore, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. As stated above I believe that adequate justification for non-compliance exists, and that the design and associated design solutions are appropriate. Finally, I also note that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight and that the residential amenities of future occupants would not be impacted to any significant degree.

Daylight Distribution – No Sky Line (NSL)

- 11.7.29. A No Sky Line (NSL) analysis was also undertaken which considers how well daylight will be distributed within the proposed units, and the results of same are set out in Appendix 2 of the report. The no sky line divides points on the working plane which can and cannot see the sky. Section 2.2.8 of the BRE 209 guidance states that if a significant area of the working plane (normally more than 20%) lies beyond the no sky line (i.e. it receives no direct sunlight) then the distribution of daylight in

the room will look poor and supplementary electric lighting will be required. The results of the NSL analysis demonstrate that the vast majority of the habitable rooms will have good daylight distribution with 457 of the total 578 room, or 79% meeting the BRE numerical criteria.

- 11.7.30. Of the 244 rooms with more than one activity (Kitchen/Dining/Living or Studio) 172 or 71% will meet the target values and receive daylight to at least 80% of their floor area, meaning that daylight will be well distributed across the open plan arrangement. Of the 72 LKDs which falls short of the threshold 14 have a NSL of 70% to 80% while a further 20 achieve between 60% and 70% and 8 achieve 50% to 60%. Of the remaining 30 rooms 29 achieves between 31% and 49% while 1 achieved 22%. Of the 120 rooms which fall short of the BRE numerical values, 48 are bedrooms. The BRE guide (paragraph 2.1.13) states that bedrooms do not need as much daylight as living rooms and kitchens, and therefore these bedrooms which fall short are considered to be in line with the guidance.

Annual Probable Sunlit Hours (APSH).

- 11.7.31. Access to sunlight was evaluated in relation to APSH which is the total number of hours in the year that the sun is expected to shine on unobstructed ground while allowing for average monthly levels of cloud cover for the specific location and is dependent on the latitude and longitude of the location. BS 8206-2 states that a dwelling will appear reasonably sunlit provided that at least one main window wall faces within 90° of due south, and the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in the winter months between 21st September and 21st March.
- 11.7.32. In compliance with the guidance the applicant has evaluated all room types within the proposed units which have a main window facing within 90° of due south. The sunlight results demonstrate that the majority of rooms within the proposed development that have been assessed for APSH will receive levels of sunlight commensurate with the recommendations of the BRE guide (73% will meet the numerical values). Of the 151 LKD spaces evaluated 114 comply fully with the guidance (75%). Of the 37 which fall short of the guidelines target, 20 achieve an APSH of between 20% and 25% and will provide adequate levels of sunlight. 16

achieve between 10% and 20% and only one is less than 10%. 18 of these rooms comfortably exceed the WSPH criteria achieving values of between 5% and 16%. Of the total 229 bedrooms evaluated 165, equating to 72%, are fully compliant with the guidance value. I consider these results satisfactory.

Amenity Space

11.7.33. I refer the Board to Section 6 of the submitted Sunlight Report which considers the level of sunlight access and potential overshadowing to proposed open spaces/amenity areas within the development. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox). To this end, sunlight exposure was evaluated by generating a 1m sq grid across each amenity including Roof terraces on Building B and C and the amenity areas at ground level. Hourly solar shading data was then utilised to produce the exposure results in hours and percentage of available hours for the specified period. The results show that all amenity spaces evaluated exceed BRE guidelines. Based on the assessment submitted and having regard to the referenced guidance, I am satisfied that the proposed amenity areas will meet and exceed sunlight standards recommended under BRE guidance.

Conclusion

11.7.34. In relation to the results for daylight (ADF and No Sky Line), and for sunlight (APSH and Amenity Space assessment), I am satisfied that where shortfalls have been identified, they are not significant in number or magnitude, and are generally limited to those units on the lower floors, or which have balconies or opposing blocks that partially obstruct daylight/sunlight provision.

11.7.35. In terms of compensatory design solutions, I note the favourable orientation of the majority of the units, with most having a westerly, southerly or easterly aspect. In addition, the proposal provides a generous provision of communal amenity space, over and above the minimum requirement, which will achieve good levels of sunlight due to its favourable orientation. There are no single aspect north facing apartments, with the majority of the units being dual aspect (56%). Each of the units has either a ground floor terrace or a balcony space that meets or exceeds the minimum requirements. Internal residential amenity spaces totalling 733.4 sq. m in area have also been provided. The provision of the public realm is also of benefit to the amenity

of the proposed residential units. The proposal also contributes to wider planning aims such as the delivery of housing on an underutilised site. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight and sunlight provision and having regard to the overall levels of compliance with BRE Targets, to the compensatory design solutions provided, and having regard to wider planning aims. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines and provides a satisfactory level of amenity for future occupiers.

11.8. Surrounding Residential Amenity and Other Uses

- 11.8.1. The potential impact of the proposed development on the residential amenity of neighbouring properties has been raised in both third-party submissions and by the Elected Members of DLRCC. Concerns have been raised in relation to scale and height of the development and the potential resultant impacts on the character of the area, overlooking (in particular from the proposed roof terraces), overbearance and overshadowing. In addition, concerns were raised regarding the resultant impacts that noise from the proposed residential services and amenities area in Building A would have on the residential amenities of adjoining properties to the west. Third parties have requested that these services and activities in the southwestern area of the site in Building A should be relocated to the Building B or C. I note that the planning authority did not raise any specific concerns in relation to noise, overbearance or overshadowing but have concerns with respect to the potential for overlooking from a number of balconies on the western façade of Building A.
- 11.8.2. The nearest existing residential properties are located to the west of the site. This includes the residence at 'Goleen' which is a two storey dwelling with its primary private amenity space to the front of the property and access onto Cross Avenue, this property is c. 6m from the proposed development site's western boundary and c. 12.5m from the proposed western single storey elevation of Building A. Nos. 1 and 2 St. Margaret's are located to the north of this property with their rear gardens backing onto the western boundary of the subject site. The separation distances from the rear elevations of these properties to the western elevation of Building A vary from c. 39.8m (No.1) to 47m (No.2). The remainder of St. Margaret's housing

estate which is comprised of c. 13 no. detached residential properties varying from single to two storeys, continues round to the north and west eventually ending in a cul de sac. These properties are further removed from the proposed development.

Overlooking Impacts on Residential Amenities and School Property

- 11.8.3. The residents of 'Goleen' and no. 1 St Margaret's have raised particular concerns in relation to overlooking of their properties. In addition, other third parties have raised concerns with regard to possible overlooking from roof/terrace level of the adjoining school properties to the north at Blackrock College and to the east at Sion Hill.
- 11.8.4. The applicant has set out in their ADS how overlooking both within and external to the development is to be mitigated. The proposed development is to maintain adequate distance between buildings and adjoining properties to avoid overlooking and overbearing impacts. Particular care has been taken with regards the western boundary and the relationship between the existing St. Margaret's dwellings and proposed Building A where any increase in building height has been stepped back to the east and additional mitigation measures have been proposed in the form of opaque glass and aluminium screening on balconies. In relation to the adjoining residential properties at 'Goleen', and Nos. 1 and 2 St. Margaret's, in addition to the existing high hedgerow and mature trees along the western boundary, these are to be enhanced by proposed new planting which will act as natural privacy screens. No windows have been included on the elevation of the adjoining 1-storey building that abuts the site boundary. In addition to the proposed aluminium screens on Building A, the gable elevation closest to the western boundary (c. 15m) at first and second floor level (See Drawing no. PP-104 and PP-105 - Apartments no. A-28, A-29, A-45 and A-46) will have frosted glass windows as an extra privacy measure while allowing natural light into the apartments. I note the planning authority have also requested that horizontal louvres be included on the western side of the balconies of apartments nos. A-28, A-29, A-45 and A-46 to prevent excessive overlooking of the residential properties to the west. In the case of the nearest two storey building to the proposed development at 'Goleen', there is a minimum distance of c. 27m between the eastern elevation of this dwelling and the proposed western first floor elevation of Building A. Given the opportunity for overlooking into the private amenity space of this dwelling which is located c. 15m to the west of proposed Building A, I would

consider such measures as proposed by the planning authority appropriate. I also note the planning authority's concerns in relation to possible overlooking issues from the balconies of Apartments no A-15, A-17, A19, A-32, A-34, A-36, A-49, A-51 and A-53 which are located on the western elevation, mid to rear element of Building A. The planning authority suggest that in addition to the proposed aluminium screens, horizontal louvre screens should also be provided to the western face of these balconies up to a height of 1.8m. Again, while I agree with premise of the planning authority on this matter, I would suggest that this horizontal louvre screening in addition to the vertical aluminium screens in this area may have an impact on the availability of light to these apartments, while I do believe enhanced screening should be provided in this area, I would suggest that the details of same should be agreed by way of condition with the planning authority should the Board be minded to grant permission. An additional screening should be cognisant of the impact on the availability of light to these apartments.

- 11.8.5. While I acknowledge the concerns raised in relation to overlooking of the school grounds to the north and east of the site (Blackrock College and Sion Hill), in particular from the roof terrace areas on Buildings B and C, I am satisfied that adequate separation distances of at a minimum c. 25m plus between the proposed buildings and the school buildings and pitches will be maintained. In addition, I note the intervening screening in the form of the mature tree lined avenue along the entrance access road to Blackrock College which will also decrease any potential for overlooking from the apartments and roof terraces. Building A has no proposed roof terrace and I am satisfied that sufficient distances would exist between the apartments in this building and the existing school amenities and buildings.
- 11.8.6. In conclusion, given the intervening distances, the proposed integration of design mitigation measures, including those additional measures proposed by way of condition above and existing mature landscaping, I am satisfied that the development will not result in any significant adverse impacts on residential amenities or nearby school amenities by way of direct overlooking.

Daylight and Sunlight Impacts on Residential Amenities

- 11.8.7. The residents of 'Goleen' and no. 1 St Margaret's have also raised particular concerns in relation to direct overshadowing of their property and loss of natural light. In designing new development, it is important to safeguard the daylight to nearby buildings. The submitted Sunlight Report consider the effects of the development on daylight Vertical Sky Component (VSC) at rear windows and on sunlight hours to gardens at neighbouring properties with regard to the BS 2008 Code of Practice for Daylighting and the BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). As discussed in relation to the submitted Daylight Report, the applicant's analysis also refers to 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 this assessment and the relevant guidance documents in this case remain those referred to in the Urban Development and Building Heights Guidelines, i.e. BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. The BRE guidelines state that if the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value occupants of the existing building would notice the reduction in the amount of skylight. The Sunlight Report examines impacts on VSC at ground floor windows with regard to the BRE guidance adjacent locations at 'Goleen' and Nos. 1, 2 and 3 St. Margaret's. The results which are outlined in Table 1 of the Sunlight report show that all adjacent residential dwellings are predicted to have a VSC in excess of the minimum advisory 27% and the reduction in VSC caused by the proposed new development is negligible and will have no perceived impact. The report states that as VSC is a measure of the amount of skylight falling on a vertical window and all the windows (36no.in total across the 4 properties) evaluated exceed the minimum required levels it is not appropriate to evaluate the rooflights for VSC.
- 11.8.8. The Report also evaluates the Annual Probable Sunlit Hours (APSH) and Winter Probably Sunlit Hours (WPSH). The report indicates that of the 47 windows and rooflights evaluated, 45 of them or 96% are in excess of the minimum advisory

threshold. The exceptions are two windows (7 and 8) located in no.2 St. Margaret's which although passing the 25% annual criteria, they do not achieve the 5% winter criteria. These two windows currently fail the winter criteria due to overshadowing from the extension to the rear of the property. It is noted that these rooms are a dinette and kitchen, both of which have a secondary window serving them. It is further noted that they have good light on average throughout the year.

- 11.8.9. In relation to possible overshadowing, the applicant highlights in the submitted Sunlight Report that it should be noted that the adjoining dwellings along the western boundary at St. Margaret's have mature trees and vegetation shielding them from the proposed development site, the presence of this which will eliminate any potential impact due to their overshadowing effect however, to determine the worst case scenario for the purpose of this evaluation the applicant's assessment did not include these trees. The shadow maps presented in the Sunlight Report demonstrate that following development, there will be limited adverse impact on surrounding dwellings or amenity areas (private gardens). The results show that all amenity spaces evaluated for the four private residences (Goleen and Nos. 1, 2 and 3 St. Margaret') to the west exceed BRE guidelines that at least 50% of an amenity area should receive a minimum 2 hours sunlight on March 21st.
- 11.8.10. With regard to the properties on the southern side of Cross Avenue while the proposed development is of a greater scale than existing two storey dwellings at this location, given the separation distances involved which is c.45m from the front elevation of 5 storey element of Building A and c. 60.7m from the front elevation of the 7 storey element of Building B and the intervening road infrastructure, I do not consider the proposed development will result in significant overlooking, overshadowing or overbearance issues on these properties.
- 11.8.11. Having regard to (i) the intervening separation distances; (ii) the orientation of the development relative to adjacent residential properties; (iii) the relative height of the proposed Blocks; (iv) the VSC findings summarised above and (iv) the number and location of the individual properties examined and to the guidance provided in Figure 20 of BRE 209, I consider that the Sunlight Report provides a comprehensive overview of potential daylight and sunlight impacts on adjacent residential properties, including those most likely to be impacted by the proposed development. I also

consider that the above results are consistent with what would generally be expected from the design and layout of the proposed development at this location, given that the lower elements of the development are positioned adjacent to existing residential properties and that satisfactory setback distances are achieved with regard to potential daylight and sunlight impacts. Having regard to the above findings, I consider that impacts on daylight and sunlight at adjacent existing residential properties will be minimal and are not beyond what could be expected from any optimal development of these zoned and serviced lands. I am therefore satisfied that the development will not have any significant adverse impacts on daylight or sunlight at adjacent residential properties.

Noise Impacts

11.8.12. An Environmental Noise Survey was carried out for the development the results of which have been submitted with the application. I note that an attended baseline noise survey was conducted at the site from Tuesday 12th January to Wednesday 13th January 2021. This baseline survey determined that the noise climate at the site is dominated by road traffic noise from Cross Avenue. The survey assessed the noise impact of the construction phase and the operational phase of the proposed development and has recommended mitigation measures to reduce any negative impact for both phases of development. I note that several third parties have raised concerns in relation to the potential impacts on adjoining residential amenities relating to noise. In particular concerns are raised in relation to possible noise impacts from the proposed residential amenities area on the ground floor of Building A, the western elevation of which is located within 4.2m of the boundary with the 'Goleen' residence to the west. This area of the building includes for a proposed Lobby, Café, Co-working area and meeting rooms. As part of the Noise Survey six primary potential sources of noise associated with the development once operational were assessed. This included an assessment of the Lobby/Café area for which the applicant states the following *'The Lobby/Cafe of the development will also have a potential noise impact on the residential aspect of the development, however this aspect of the development will not occur during the night-time period. The main noise associated with a Lobby/Cafe area is from deliveries by lorries or vans. All deliveries will be only permitted between 07:00hrs – 19:00hrs, in order to ensure that this activity does not impact the more sensitive night-time period. Lobby/Cafe area*

units shall be posted appropriate signage to this effect. Based on this information I am therefore satisfied that there will not be any adverse noise impacts on adjoining properties.

- 11.8.13. I note the concerns raised by third parties in relation to noise from mechanical plant associate with the Lobby/ café of the proposed development. The applicant addresses this issue within Section 6.4 of the Noise Survey report and states that the proposed mechanical plant items will be selected at a later stage, however, they state that they will be designed and located so that there is no negative impact on sensitive receivers within the development itself and that the services plant will be designed/attenuated to meet the relevant plant noise criteria for day and night-time periods at nearby sensitive receivers as set out in Section 2 of the report. The report concluded that with the implementation of the recommendations included in the report (as listed under Section 7) which include appropriate glazing, ventilation strategy and wall construction, as well as construction stage mitigation, it is considered that a suitable level of protection against noise will be provided to the occupants of the proposed development and that taking into account that sensitive receivers within the development are much closer than off-site sensitive receivers, once the relevant noise criteria is achieved within the development it is expected that there will be no negative impact at sensitive receivers off site (this would be the case also for mechanical plant items). I am therefore satisfied that the amenities of both existing and proposed residents will not be negatively impacted as a result of noise and therefore that no further mitigation required.

Construction Impacts on Residential Amenities

- 11.8.14. The application includes an Outline Construction Management Plan and an Outline Construction Environmental Management Plan, which include details of construction traffic management and proposals for monitoring at neighbouring properties during construction and an Outline Construction and Demolition Waste Management Plan. All of these documents address potential adverse impacts on residential amenities during construction and I am satisfied that, subject to the implementation of a detailed Construction Management Plan and a Construction Traffic Management Plan, which may be required by condition if permission is granted, the construction

phase of the development would not have any significant adverse impacts on residential amenities.

11.9. Trees and Landscaping

- 11.9.1. The Board will note that matters in relation to the proposed development and the INST Objective and how same relates to the open space/open character requirements including the retention of existing features/trees has already been addressed under Section 11.4.11 to 11.4.21 above. This current section specifically addresses concerns raised by the planning authority in their fourth recommended reason for refusal. In this the planning authority stated that the layout of the proposed development and the infrastructure servicing it, is at risk of impacting the site's character and natural heritage due to the impact on the significant mature tree population within the site. In addition, I note that the planning authority considered that the landscaping depicted in the imagery of woodland plantings surrounding the development is not achievable and above podium tree planting has not been afforded sufficient soil depths to reach the proposed maturity as set out by the application documentation. As a result, the proposal is not considered to accord with the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 objective 'To protect and preserve trees and woodlands'.
- 11.9.2. The site presents a unique character, with a number of large mature trees that wrap around its edge to form a "green belt" buffer. This comprises a mix of native and non-native species which are largely in good condition. I acknowledge that the trees contribute to the character of the area significantly and the applicant states that their retention is a key design driver. A comprehensive Arboricultural Report has been submitted with the application and in addition to this a Landscape Design Proposal documents. The submitted Arboricultural Report highlights that the combined effects (e.g. impacts on root systems from infrastructure, services etc.) of the proposed development would see the loss of c. 25% of the sites tree population. The majority of these losses are poor quality category "C" trees and unsustainable category "U" trees which make up 92% of all tree losses, with good quality category "B" trees comprising only 8% of the overall losses. The report states that many of these tree losses are positioned towards the centre of the site where their loss tends to be

visually insignificant beyond their immediate environs and that much of the outward aspects of the site will remain unchanged.

- 11.9.3. The proposed development's expected tree impacts have been represented graphically on the tree impacts drawing "Clareville Tree Impacts Plan". The location of the 'Primary Construction Exclusion Fencing' has also been denoted on this drawing. As noted within the survey data, the "red line" area supports a total of 197 no. individually described items. The items can be categorised as follows: 1 no. excellent quality category "A" tree, 76 no. good to fair quality category "B" trees, 86 no. poor quality category "C" trees, and 34 no. unsustainable category "U" trees. Of the 34no. "U" trees identified nos. 33, 112, 123, 137, 147, 183 and 188 are located outside the site jurisdiction and therefore can only be dealt with by their owners. Within the collection of category U trees, note is made of Horse Chestnut no.925. This tree has suffered significant damage and decay since its historic decapitation and therefore offers limited safe sustainability. Nonetheless, it is intended to attempt its retention in the short term by the application of various tree pruning processes, thereby allowing for its interim retention, subject to regular review. I welcome this proposed effort.
- 11.9.4. Of the site's good quality category "B" trees, the proposed development works will see the loss of nos.163, 185, 936a and 937. The tree loss breakdown for the proposed development will be 4 no. Category "B" items, 19 no. category "C" items, 26 no. category "U" trees (of 34 Category "U" items recorded across review area). Therefore total development related tree loss amounts to 49 (25%) trees/tree groups of 197 recorded items. Trees proposed for removal include species of Poplar, Sycamore, Strawberry tree, Holly, Horse Chestnut, Lime, Elm, Cherry, Apple, Plum, Cordyline, Beech and Rowan.
- 11.9.5. The tree protection plan appreciates that some ancillary work must be completed within tree protection zones. Much of these works relate to landscape features including access paths and amenity areas, all of which can be achieved by low impact means. For the purposes of this report, it is also assumed that vehicular access to the east of the main entrance can be achieved in a similar manner and using "no-dig" processes such a "three-dimensional cellular confinement" systems as opposed to more standard road construction methodologies. Particularly, it is

assumed that the fire access road can be achieved using this system as it passes beneath Cypresses nos. 933 and 935. The submitted tree protection plan also appreciates that certain demolition works on site may occur within tree protection zones where root systems could be impacted, and in these cases careful control of activities will be required e.g. demolition Tower Green house and garage and the removal of the existing driveway near tree nos. 969 to 971.

- 11.9.6. Section 8.2.8.6 of the operative CDP outlines that “New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps’. The overall Blackrock College site contains seven of these tree symbols, with a further four noted on adjoining lands, thus denoting the importance of the existing trees within the area. Section 8.2.8.6 then goes on to further state that “Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition”. It is proposed to re-plant 268 no. new trees to compensate the above losses, in addition the applicant states that these will define spaces, enhance character and bio-diverse credentials. These will vary in specification of size and species with the majority selected from native tree species of deciduous and evergreen nature (details have been included in the submitted planting schedule). I consider the proposals for replanting satisfactory and in line with Section 8.2.8.6 of the plan.
- 11.9.7. The Parks Department of DLRCC contests the feasibility of the podium and roof level tree planting given the restricted depths of the raised planters provided. While I acknowledge these concerns, I would suggest that these issues could be dealt with by way of condition and agreement with the planning authority should the Board be minded to grant permission. While I also acknowledge the concerns raised by the planning authority in relation to the impact on the root protection areas of established mature specimens in particular in relation to the Category B trees (916, 918, 919, 920, 935, 969) I believe again that this can be addressed by way of condition to ensure that all the recommendations pertaining to tree retention outlined in the submitted Arboriculturist’s Report are implemented. All works within the Root

Protection Areas of retained trees should also be overseen by the project arborists and a monitoring report should be submitted to the planning authority for review by the Parks Department for the duration of construction works. Should there be a need to remove additional trees, either as a result of the need to facilitate the development or as a result of any danger presented as a result of loose limbs, details of same should be agreed with the planning authority, and again this can be ensured by way of condition. Overall, I believe that the design has been cognisant of the significant trees on the site and has allowed for the retention of the majority of the high-quality trees.

- 11.9.8. The tree protection plan also takes account of the requirements for invasive plant management that relates to ‘Japanese Knotweed’ and ‘Three Cornered Leek’ noted to be present on the site. Specific procedures have been outlined in the management plans provided and as submitted as part of the broader application. Particular note has been made of the extent of the Japanese Knotweed “dig and dump” process and how this interacts with the proposed tree protection plan. The issue of invasive species is dealt with in more detail under Section 11.10 below.
- 11.9.9. I have examined the documentation on file, including the Arboriculture Report and Landscape Design rationale which sets out proposals for the adoption of controlled construction techniques and tree protection measures. I believe that the potential for tree retention has been maximised as best as possible and tree loss has been mitigated by what is a substantial planting scheme of an additional 268 trees. This is considered reasonable. Additional mitigation measures set out in the EclA and the Development Applications Unit (DAU) submission with regard to tree felling/removal should be included by condition if permission is granted. These measures are further discussed in Section 11.9 below.

11.10. Invasive Species

- 11.10.1. Japanese Knotweed and Three Cornered Leek, both of which are classified as invasive species have been identified on the site. Japanese Knotweed is a highly invasive species, listed under regulation SI 477 of 2011. A survey, assessment and Invasive Species Management Plans for both species has been developed to address these issues by Knotweed Control Ireland. A certified Surveyor for

Japanese Knotweed carried out a site inspection on the 22nd and 23rd October 2020 and subsequently submitted the site survey results detailed in the submitted report. Japanese Knotweed was found at two locations in site, along the northern boundary of the existing garden at Clareville and along the southern boundary of the Tower Green property (see Appendix A of the submitted management plan). Most of the Japanese Knotweed was located growing in plant/herbaceous beds, and it is likely that Knotweed was introduced onto both sites with contaminated soil material. Three Cornered leek was identified along the southern boundary of the site, within the root protection zone (RPZ) for trees nos. 915 and 917. As detailed in the report, the key actions carried out to date as well as future site management priorities are identified as follows:

- All invasive J. Knotweed species on site has been treated with herbicides (09/June/2021) following Best Practice Guidelines while also following guidance on the Herbicides label.
- Any invasive Three Cornered Leek within RPZs will be treated in-situ. All Three-Cornered Leek infestations that are growing outside Root Protection Zones and are within the construction foot-print will be included in a Dig & Dump program and disposed off-site under license, from National Parks & Wildlife Services (NPWS).
- All invasive plant infested soils will be excavated and stockpiled on a ground membrane and stockpiled securely on ground protection on site to await haulage to the IMS landfill facility in Naul, County Dublin. Loading machines will not be allowed track/drive over infested soils.
- The submitted management plan will be reviewed on a regular basis and in any case every 6 months from commencement of monitoring stage to completion. (At least 2 years).

11.10.2. I note that under Regulation 49(2) 'any person who plants, disperses, allows or causes to disperse, spreads or otherwise causes to grow Japanese Knotweed or any of the other invasive plants listed in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011) shall be guilty of an offence. Furthermore, Sections 52(7) and (8) of the Wildlife Act, 1976, as amended, make it an offence to plant or otherwise cause to grow in a wild

state exotic species of plants'. It should be noted that the applicant's requirement is for Japanese Knotweed to be eradicated from the site. Herbicide treatment and control of plants on the subject site commenced in June 2021 and has continued on site to date. It is proposed that contaminated soil will be removed from site under licence. Mitigation and priority control measures are clearly stipulated in the report submitted, and I am satisfied that subject to their implementation that this matter can be satisfactorily resolved. I am satisfied that the measures proposed are known and consistent with best practice and are therefore considered to be effective. I also note the report of the Biodiversity Office of DLRCC and the report of the DAU; no significant concerns are raised, and suitable conditions are recommended to ensure that this matter is adequately addressed. I am satisfied that this matter can be conditioned, as the mitigation measures proposed are considered to be clearly outlined and deemed to be effective.

11.11. Social Infrastructure – Childcare/Creche

11.11.1. In support of the planning application the applicant has submitted a 'Creche Assessment' which has determined that a childcare facility will not need to be provided within the development. The applicant refers to their demographic analysis contained in the report which states that 2016 census data shows that c.6.25% of the local catchment area's population were aged 0-4 in 2016 and of the four EDs within the local catchment area, Blackrock Williamstown ED had the lowest percentage of people aged 0-4 with only 4.9% of the population within that cohort. The applicant also states that the Quarterly National Household Survey indicated that in the Dublin region only 25% of pre-school age children attend private childcare. The applicant states that applying this percentage to the total estimate of children indicates that c. 10 no. childcare spaces are needed, assuming that each apartment has children in the 0-4 age category. The applicant then states that the Apartment Guidelines (2020) recommend the exclusion of studio units and one bed units when calculating childcare demand. When these units are excluded from the calculations, it is estimated that c. 5 no. childcare spaces will be needed for the development. The assessment also examined the availability of capacity within facilities in the surrounding area and determined that there are 9 no. childcare facilities operating within 1km of the subject site and further facilities north, west and south of the site,

and therefore another childcare facility would not be appropriate or required in the area as part of the proposed development.

- 11.11.2. Having reviewed the report submitted however I find it unclear as to how the applicant has concluded that there is sufficient capacity present, as only 5 spaces would appear to be available within 6 of the 9 studied existing facilities. Although I note that the report highlights that some providers may have future availability, no details are provided of the number of expected spaces. I note that the planning authority have also raised similar concerns and have stated that the demand for childcare has also been further exacerbated in recent times as a result of the Covid 19 pandemic. They state that they do not accept the justification put forward by the applicant and state that the proposal would be contrary to Section 7.1.3.6 and Policy SIC11: Childcare Facilities of the operative CDP. The planning authority state that the applicant should be obliged to provide a childcare facility and that same could be accommodated in lieu of a number of proposed apartments on the ground floor of Block C.
- 11.11.3. The Childcare Guidelines (2001) states that 1 childcare facility with a minimum provision of 20 spaces is required per 75 dwellings. The Apartment Guidelines (2020) indicate that notwithstanding these requirements, a more specific analysis should be undertaken for apartment developments, having regard to the scale and unit mix of the proposed development. One bedroom or studio type units are not considered to contribute to a requirement for any childcare provision. Therefore, for the subject development and on the basis of a total of 104 remaining no. 2 and 3 bed units the proposed development would generate a requirement for c. 28 children. Based on the low availability of existing childcare places in the vicinity and the growing population of the area, I would consider it prudent to include a childcare facility as part of the proposed development. In addition, I would consider the inclusion of the facility on site would enhance social infrastructure within this area which already has a number of primary and secondary schools. Therefore, if the Board are minded to grant permission, I would suggest that a condition is included which shall require the applicant to provide a creche on the ground floor of Building C in lieu of apartment nos. C05, C07 and C09 with an associated directly accessible play area on the proposed lawn area to the east. The proposed location of the facility

is considered acceptable having regard to the provision of outdoor amenity space and proximity of public access to this area of the site.

11.12. Architectural Heritage

11.12.1. The submitted AHIA notes that the key protected structures potentially impacted by the proposal are St. Philip and St. James' Church, Williamstown Castle and Castledawson House. St. Philip and St. James' Church is located opposite the subject site on the southern side of Cross Avenue and is in my opinion the most notable of the nearby protected structures from a public realm perspective. The AHIA includes an evaluation of the submitted TVIA and its associated photomontages which are taken from various viewpoints from the immediate area and the wider environs. Within the AHIA the setting of the church is defined by the inward vistas from Cross Avenue and not by the outward vistas towards the development site. It is stated in this report that the generous width of Cross Avenue and the presence of mature trees inside both boundaries will alleviate the more remote impacts of change in the character of Cross Avenue arising from the proposed scheme. Given the sighting of the Church relative to the application site, I am satisfied that the proposal will not have an adverse impact on the character or setting of this protected structure. I have also had regard to the submitted photomontages (View no. 05 and 09) as they relate to views from vantage points to the south of the site on the Rock Road looking south towards the site and I am satisfied that the proposal will not impact on the character or setting of those protected structures located on the Blackrock Campus grounds.

11.12.2. In terms of other heritage, I note that the AHIA states that part of the wall enclosing the Cross Avenue boundary of 'Tower Green' comprises an 18th century structure, possibly dating back to the former Clareville Demesne in which the present site was set. As part of this wall is proposed for demolition to achieve site permeability onto Cross Avenue, the report recommends that the demolition of this wall be preceded by detailed recording to inform archival information on the original demesne of Clareville. I would concur with same recommendations which can be addressed by way of condition should the Board be minded to grant permission.

11.13. Traffic and Transportation

11.13.1. In relation to traffic and transport issues, I have had regard to the Traffic and Transport Assessment (TTA) (dated August 2021), the DMURS Compliance Statement (dated July 2021), the Car Parking Management Plan (dated June 2021) Mobility Management Plan (MMP) (dated July 2021), the Operational Waste & Recycling Management Plan (dated July 2021), the Outline Construction Management Plan (dated July 2021) and the Outline Construction and Demolition Waste Management Plan (dated July 2021). I have also had regard to the submission from the planning authority, as well as observer submissions. I note that the planning authority's second and third reasons for refusal relate to both car parking and cycle parking, these are examined further in the sections that follow.

Vehicular Access and Traffic Impacts

11.13.2. Vehicular access to the proposed development is to be located on the southern boundary of the site onto Cross Avenue via a new development junction, c. 15m from the western site boundary. Cross Avenue is a single lane two-way carriageway with footpaths on both sides of the carriageway and no existing designated cycle lanes. Adequate space will be provided for 4 no. cars to wait while the basement car parking gate is opening to prevent queueing on the external public footpath and roadway. The width of the road carriageway is 6.0m to facilitate two-way vehicular traffic and the relevant design vehicle turning manoeuvres (i.e. fire tender and refuse vehicle). Forward and junction visibility is provided in compliance with the extant 50kph speed limit applicable to Cross Avenue. No on-street parking is proposed for the development. A vehicle set-down is provided to the front of Block A and the courtyard in this area facilitates the required operations associated with ESB access and refuse vehicle waste collection – as demonstrated by the supplied swept path analysis drawings. A road safety audit of the proposed design of the site has been undertaken and is included as part of the submitted Quality Audit. In summary I am satisfied with these submitted elements.

11.13.3. Due to the Covid-19 travel and work restrictions in place at the time of preparing for this development submission the applicant states that they have used existing relevant historical traffic survey data publicly available for another proposed

residential development on Cross Avenue (Planning Reference: ABP302921). The trip rates were generated by TRICS (Trip Rate Computer Information System) for 'privately owned apartments' which were extracted from the database and applied pro-rata to the relevant development uses. The junction capacity analysis was carried out to include for the predicted traffic growth (summary results are shown in Table 8-4 of the TTA). Traffic surveys for the Booterstown Avenue/Cross Avenue junction and the Mount Merrion Avenue/Cross Avenue junction were undertaken on Thursday the 14th of September 2017 and were deemed to be still valid for this new proposed scheme due to their relatively recent undertaking. Given the current circumstances I consider this acceptable. The surveys were carried out over a 12-hour period between 07:00 and 19:00 in order to ascertain the hourly flows for all traffic movements at the 2 no. junctions. The traffic surveys undertaken found that the mean morning peak hour traffic flow at the existing junctions surrounding the development generally occurred between 08:00 and 09:00 (AM). The evening peak hour flow was found to be between 16:00 and 17:00 (PM). Having examined the submitted modelling results I would not expect that the proposed development will have any significant impact on the existing operational capacity of the surrounding network of roads and junctions up to the Design Year 2039. I note that it is assumed that the communal amenities are provided for residents alone and therefore will not generate any additional travel journeys to or from the development during peak times.

11.13.4. I note that the planning authority have raised issue with the access ramp to basement level which has a proposed gradient of 1:6 and 1:12, which is not in line with the DLRCC standards for 'Cycle Parking and associated Cycling Facilities for New Developments' (Jan 2018) which states that access ramps for cyclists should not exceed 7% (1:14). However, having examined the submitted Basement Plan (Drawing No. PP-101) I note that the segregated cyclist lane at 1.75m in width has a proposed gradient of 1:14. This would appear to meet the DLRCC requirements, however given the difference in gradient between the vehicular ramp and the cyclist ramp, I would suggest that details of same should be agreed with the applicant by way of condition prior to commencement of development

Pedestrian Access

- 11.13.5. The proposed scheme will integrate the site into the surrounding footpath networks providing convenient pedestrians routes to the south. I note that the eastern most pedestrian entrance (along the southern boundary) provides convenient direct access onto the existing Toucan pedestrian crossing on Cross Avenue.
- 11.13.6. Currently vehicles and pedestrians can also access the existing site from Rock Road by passing through the Blackrock College grounds (private), however, this access is only available during limited hours when the college gates on Rock Road are open. While I note that no access point is provided along the northern boundary of the development site into the Blackrock College Campus, which are private lands, I do note that future provision for such a connection is feasible. DMURS looks to encourage: “layouts that maximise the number of walkable/cycleable routes between destinations”. The proposed development adopts this ethos through the provision of a permeable pedestrian and cyclist linkage to the existing surrounding network specifically to the south and southeast. As stated previously and as raised by the planning authority, it is recommended that the option of providing another access point on the northern boundary of the site is investigated further and that details of a universal access route which may provide future access north of the site are agreed with the planning authority prior to commencement of development. This requirement can be addressed by way of condition should the Board be minded to grant permission.
- 11.13.7. I would agree with the planning authority in that I also believe pedestrian and cyclist access to the proposed cycle parking areas via the basement carparking area has been poorly designed, however I do believe that measures can be put in place to address these issues such as ‘cyclist dismount’ signage and also appropriate road markings. Should the Board be minded to grant permission I would suggest that this issue could be addressed by way of condition and agreement with the planning authority prior to commencement of works.

Cycle Parking

- 11.13.8. As the level of residential car parking provision has been reduced in line with the Apartment Guidelines (2020) (discussed further in Section 11.13.11 below) the

applicant has sought to provide a total of 479 no. cycle parking spaces (355 Long term and 124 Short term) as part of the development which equate to 1.96 per unit and exceeds the development standards required. Secure bicycle parking for 220 no. bicycles, plus 7 no. cargo bikes, is provided at basement level with short stay cycle parking integrated into the landscaping scheme at ground level. I note the planning authority is not satisfied with the design, location and quality of the proposed cycle parking spaces for proposed BTR residential development stating that same is considered to be contrary to the 'Standards for Cycle Parking and associated Cycling Facilities for New Developments - January 2018', Section 8.2.4.7 (Cycle Parking) of the operative CDP and the Apartment Guidelines. While I note the planning authority's concerns regarding access to basement cycle parking, I note the minimum 2.4m head room clearance has been provided and I consider that issues in relation to the basement access ramp gradient can be addressed by way of condition as discussed previously under Section 11.13.4 above. I am satisfied that the cycle storage provision exceeds the minimum recommended levels described in both the operative CDP and the Apartment Guidelines. I note that while the planning authority are satisfied with the quantity of cycle parking to be provided, they consider 'Sheffield' type storage to be preferred to the long stay storage type detailed in the submitted 'basement plan'. However, I am satisfied that the type of long stay storage shown for cycles is suitable and therefore overall, I consider the proposed basement cycle storage provision to be acceptable. I do however consider that there is potential to improve the proposed short stay cycle parking available at ground floor level and would suggest to the Board should they be minded to grant permission that 50% of this parking is provided with all-weather covering, this stipulation could be addressed by way of condition.

11.13.9. In summary, I am satisfied that provided the issues above are addressed prior to commencement of development, the cycle parking proposed will meet the necessary standards. I am satisfied also that the location can support the level of cycle movements expected, noting the future plans under the Greater Dublin Area Cycle Network Plan to incorporate Secondary Routes S04 along Mount Merrion Avenue and Route 13E/N5 Route along Booterstown Avenue. In addition, I also note Route no.13, which is a primary route connecting Blackrock to the city centre, is proposed along the Rock Road, which is accessible and in close proximity to the proposed

site. In addition, I note that Cross Avenue is defined as a 'Low Traffic Route' under the DLRC Cycle Network Map and therefore capable of safely accommodating cyclist activity.

Car Parking

11.13.10. Car parking serving the subject development is provided within the on-site basement car park located below the three building blocks. The proposed scheme includes for 71 no. car parking spaces representing a parking ratio of 0.29 spaces per unit. This overall level of provision is 23.8% of the quantum sought under the operative CDP's parking standards. A Material Contravention Statement has been submitted in this regard. However, I do not consider the car parking provision to represent a material contravention of the operative CDP and I also note that the planning authority do not raise the issue of material contravention in this regard (See Section 11.13.18 below for detailed analysis). The applicant states that the lower provision is aimed at reducing the additional traffic loading in the area due to the good public transport connectivity available in the area. Third parties and the planning authority have raised concerns regarding the under provision of car parking on site and the potential for overspill car parking onto the surrounding road network/area and the removal of a significant number of on-street car parking spaces required by the development which will have a resultant impact on school drop off zones along Cross Avenue. The planning authority's Refusal Reason no. 2 reflects these concerns.

11.13.11. Table 8.3.2 of the operative CDP sets out residential car parking standards which permit 1 no. space per 1-bed unit, 1.5 no. spaces per 2-bed unit and 2 spaces per 3-bed units+. There is no standard for BTR accommodation. While the applicant acknowledges that the car parking provision proposed is below the operative CDP's recommendations, they state that Table 8.3.2 is in conflict with the supporting text set out in Section 8.2.4.5, where it is stated 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.*" I do note that some Elected Members (as detailed in the CE Report) actually consider the

provision of this lower level of carparking appropriate given the proximity of the site to sustainable transport modes e.g. Bus and DART services. The applicant argues also that the standards contained within the operative CDP have also been superseded by sections 4.23 and 4.24 of the Sustainable Urban Housing Design Guidelines for New Apartments, 2020 and that this ratio also compares favourably to other BTR schemes granted by the Board.

11.13.12. The planning authority state that the applicant should ensure that all future occupants shall be made aware of the reduced car parking provision and lack of car parking entitlement. This information should also be included within the BTR Deed of Covenant in addition to specific mobility management measures to support reduced car ownership levels. I note that the applicant proposes to provide 13 no. parking spaces dedicated for car club use only for inclusion in the scheme's car space provision (refer to Appendix F of Mobility Management Plan for Letter of Intent from GoCar). GoCar advise that 1 No. GoCar vehicle can replace up to 15 private cars and applying this rationale results in an 'equivalent provision' of 58 (proposed spaces) +195 (go car) = 253 no. private car spaces. This level of provision represents 84.9% of the quantum required under the operative CDP's parking standards.

11.13.13. SPPR 8 of the Apartment Guidelines states the following '*There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measure*'. The operative CDP zones the subject site for residential development and the site is located within walking distance of a number of centres including Blackrock with its associated services, facilities and employment offerings. The site is within close proximity to public transport modes which provide frequent services and therefore in my opinion sufficient provision for onsite car sharing is to be provided. In addition, it is the stated intention of on-site management at the proposed development that a co-ordinator be appointed to administer, implement, monitor and review travel plan management issues along with a steering group. Based on all the aforementioned, I am satisfied that the proposal achieves the

aims of a BTR scheme as outlined under the Guidelines, however in order to alert any future occupants to the restricted parking available on site, I would suggest that if the Board are minded to grant permission that this is made clear within the BTR Deed of Covenant. This can be addressed by way of condition.

Other Parking Standards

11.13.14. Motorcycle parking is provided at basement level with 10 no. spaces to be provided. 3 no. parking spaces (4.2 % of the total number of spaces) will be designated disabled user car-parking spaces. This is compliant with the operative CDP requirements and I am satisfied in this regard. A total of 10 no. parking spaces within the basement will be equipped with fully functional Electric Vehicle Charging Point, while I acknowledge that this is in excess of minimum requirements, I consider that given the future plans to move a significant proportion of car users to electric vehicles and national targets in relation to same, that all proposed car parking spaces constructed should be capable of accommodating future electric charge points. This requirement can be adequately dealt with by means of condition.

11.13.15. I am also cognisant of the need for car storage as a component of residential developments. While I acknowledge that the issue of car storage is very relevant, as previously outlined above residents of the scheme should be made aware of the limited quantum of spaces when deciding whether or not to live in the proposed scheme and this matter may ultimately influence their decision.

Impact on Schools and Residents within the locality.

11.13.16. Parking is not possible along the majority of Cross Avenue, with double yellow lines along much of its length and a wide grass verge along both sides, with intermittent entrances provided to residential properties. These double yellow lines also extend along St. Margaret's and Glenvar Park, both residential streets within close proximity to the development. In my opinion these parking controls would prevent overspill parking into the immediate areas. I also note that existing residential properties in the vicinity all have ample off-street parking and are unlikely to avail of on-street parking. Where on-street car parking is provided this is restricted to 'pay & display' parking for a max 3 hr period. As a result of the proposed vehicular access works and required visibility splay 15 no. on-street 'pay and display' parking

spaces on the northern side of Cross Avenue, adjacent to the proposed entrance are to be removed. 2 no. car spaces are to be retained on the eastern end directly opposite the entrance to St. Philip and St. James' Church. While I note that several third parties and Elected Members have raised concerns regarding the impacts that the removal of these spaces may have at school pick up/drop off times, I note that there is provision of further on-street parking within a reasonable distance west along Cross Avenue. I would also not consider the loss of 15 no. on street spaces a sufficient reason to refuse this development. While I do not consider that it would be appropriate to address this issue by means of condition, given that any area for replacement carparking along the public road would be outside of the applicant's control (site area outlined in red), I do consider that there is a possible opportunity for the displaced car parking spaces to be accommodated elsewhere along Cross Avenue and that it would possibly be open to the local authority under separate provisions to pursue this. As demonstrated by the submitted TTA and MMP it is not considered that the traffic generated by the proposed development would have any significant impact on existing traffic flows along Cross Avenue or the surrounding area. Issues of illegal parking are a matter for law enforcement, outside the remit of this planning application.

Conclusion

11.13.17. To conclude, the concerns of the planning authority are acknowledged in this regard, as too are those of the third parties and the Elected Members. Given the location of the site within an urban area on zoned lands, together with the nature of the use proposed, I do not have undue concerns in relation to traffic or transportation issues. I acknowledge that there will be some increased traffic as a result of the proposed development, however these levels are not expected to be significant. In general, the site is well served with public transport and other services/amenities within walking distance. A DMURS Design Statement is included with the planning application which demonstrates that the proposed development achieves the appropriate balance between the functional requirements of different network users whilst enhancing the sense of place. Permeability for pedestrians and cyclists is prioritised throughout the scheme with pathways through the public open spaces. Matters raised in relation to the layout of the proposed basements can be adequately dealt with by means of condition. Importantly, potential residents will be made aware

of the parking situation when deciding to move into the complex. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

Car Parking – Material Contravention

- 11.13.18. The applicant's Statement of Material Contravention also sets out a justification for the proposed level of car parking. The applicant argues that the objective for having a "standard" requirement for residential parking as set out in Table 8.2.3, requiring this development to provide over 142 car parking spaces, arguably conflicts with Policy ST3 which is aiming for a modal shift away from private cars, as well as the text within Section 8.2.4.5 which requires consideration of a reduced car parking standard for any development that is close to a Town Centre, in proximity to public transport and taking account of the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a Travel Plan. All of which the applicant states can be achieved on this site.
- 11.13.19. The applicant also states that it is contended that the proposed development is a highly sustainable, strategic housing development, which complies with the principles for reduced car parking outlined in the National Planning Framework (NPO13) and the Apartments Guidelines (2020) for sites such as this which can be considered a 'Central and/ or Accessible Urban Location', and therefore the Board may grant permission under Section 5(6) of the 2016 Act. As previously stated, I would not agree with the applicant's assumption that the current site falls within the definition above and instead would consider the site more appropriately corresponds to an 'Intermediate Urban Location' as defined in the Guidelines. Having said this however I note that the definition of such areas also includes the following statement '*planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard*' and therefore the proposed reduced car parking levels would be considered appropriate under Section 4.21 of the Guidelines.

11.13.20. To conclude, I note that the matter of car parking has been addressed in the submitted Material Contravention Statement, although the applicant does not state that the proposal represents a material contravention in this regard. The planning authority have not stated that the proposal represents a material contravention in relation to car parking. I also consider that the proposal does not represent a material contravention in relation to car parking. However, if the Board do consider this to be a material contravention, they may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i), (ii) and (iii) (NPO13 and Apartment Guidelines).

11.14. **Site Services and Flooding**

Stormwater and Surface water Drainage

11.14.1. It is proposed to discharge the stormwater drainage (entirely separate from foul water) within the site to the existing 900mm concrete surface water sewer on Mount Merrion Avenue by gravity. This will require approximately 250m of new 225mm surface water sewer to be laid along Cross Avenue. The surface water runoff from the buildings and the hardstanding areas will collect via a gravity system and discharge to the attenuation tank. Due to the proposed basement the surface water will then outfall via a riser main to a manhole within the site boundary where it will outfall by gravity to the existing 900mm sewer on Mount Merrion Avenue. The surface water runoff from the buildings and the hardstanding areas will collect and discharge to the attenuation tank via the SUDS measures proposed which include green roofs, paved landscaping areas including infiltration trenches and permeable surfaces. The proposed attenuation tank is sized to reduce the runoff from the site to 6.00l/s (1:100 year storm return period) storm, with 30% additional rainfall to allow for climate change. The tank will be located between blocks B & C outside of the basement extents. It is proposed that all water run-off from the basement car park area will outfall via a Class 1 Bypass Separator located upstream of the proposed basement pump chamber. This device will remove hydrocarbons and fine sediment particles from the site runoff and lower the risk of downstream contamination following an oil spillage on site.

11.14.2. I note that the Drainage Department of DLRCC has raised concerns regarding the now proposed pumped solution on site which it says should only be considered on

an exceptional basis. If pumping is considered unavoidable then the developer will be required to meet the stated criteria to the satisfaction of the Drainage Department. However the Drainage Department is of the opinion that a gravity solution is achievable for this site, as it was proven in previous design iterations. I acknowledge the Drainage Department's concerns in relation to surface water drainage and note that no justification has been presented in the submitted Engineering Planning Report as to why a pumped system is now required. I note the conditions as recommended by the Drainage Department, and should the Board be minded to approve, these conditions should be imposed on any permission. Subject to the conditions as suggested by the Planning Authority, I consider the surface water proposals to be acceptable.

Water Supply

11.14.3. In order to facilitate the proposed development approx. 140m of a new 150mm ID pipe main is required in Cross Avenue to connect to the development to the existing 9" CI main in Mount Merrion Avenue. Irish Water have stated that they currently do not have any plans to extend its network in this area and therefore the applicant would be required to form this network extension as part of a connection agreement. The applicant has engaged with Irish Water and has submitted design proposals and Irish Water has issued a Statement of Design Acceptance. I am therefore satisfied that provided this proposed extension is realised the existing Irish Water infrastructure should be capable of serving the site.

Foul water

11.14.4. Foul water from the proposed buildings is to be collected via an underslung drainage network in the basement. This will then outfall via gravity to a manhole outside of the basement extents. The runoff from the basement carpark will be collected via a separate foul network and pumped via a riser main to the foul manhole outside of the basement extents. 24hour storage will be provided for in the pump chamber in case of a pump failure. It is proposed that the foul sewer will then discharge by gravity to the 300mm vitrified clay combined sewer on Cross Avenue. I note that the applicant has engaged with Irish Water in respect of design proposals within the red line boundary of the proposed site and has been issued a Statement of Design Acceptance for the development. Irish Water have also confirmed via the Pre-

Connection Enquiry process that the development can be supported by the public foul water network (Appendix G of Engineering Planning Report refers).

Flooding

- 11.14.5. A Site-Specific Flood Risk Assessment (SSFRA) was carried out by PUNCH Consulting Engineers and has been submitted with this application. The SSFRA states that the site is entirely within Flood Zone C. As part of the sequential test, the OPW flood hazard maps were consulted, as were the Catchment Flood Risk Assessment Maps produced by the OPW. In all cases it was found that the development is at low risk of flooding and the development is deemed appropriate within the proposed site. Given the issues in relation to surface water drainage and the proposed pumped system, as previously raised above, I note that the Drainage Department of DLRCC has requested that prior to the commencement of development the applicant submit an SSFRA to the planning authority for its written agreement, which adequately addresses the risk due to overland flow and also comments on the proposed surface water drainage system in the event of blockage or partial blockage and any surcharging or flood risk that may be identified.
- 11.14.6. In conclusion, I am satisfied that the site is not located in an area at risk of flooding and that the proposed development will not result in any increase risk of downstream flood impacts and that subject to the specific conditions in relation to SSFRA and surface water drainage the proposed development is acceptable in this regard.

11.15. Ecology

- 11.15.1. Observer submissions have raised concerns in relation to ecology including that the application has failed to examine impacts adequately, in particular with regard to 'terrestrial mammals' given the known presence of badgers on site and also the presence of bats and the impact on roosting bats in adjoining properties (trees and out houses). In relation to trees, it is stated that the mature trees on the site should be protected and that the trees proposed to be retained are unlikely to survive construction impacts. Issues in relation to impacts on trees have previously been discussed under Section 11.9 above, therefore this section shall focus on the remaining concerns raised in relation to ecology.

11.15.2. An Ecological Impact Assessment (EclA) (dated 17th August 2021) has been submitted with the application. This includes a 'Bat Fauna Survey' in Appendix 1 of same. The EclA refers to two field surveys that were carried out, on 28th April 2021 and on 21st June 2021 during the optimal flora and bat season. In addition to the field surveys, from the 7th December 2020 to March 2021 site visits were carried out to monitor the site for wintering birds that are qualifying interests of nearby Special Protection Areas (SPA), the South Dublin Bay and River Tolka Estuary SPA, which is located a distance of 0.5km to the north. These assessments took place each Saturday when activity on the school grounds was low and there was a greater likelihood of birds foraging on site. The closest other Natura 2000 site is the South Dublin Bay Special Area of Conservation (SAC) also located 0.5 km from the subject site. The nearest proposed Natural Heritage Areas (pNHA) are South Dublin Bay pNHA, located 0.5 km from the site, and Booterstown Marsh pNHA, located 0.7 km from the site. Habitats within the proposed site were classified according to Fossitt (2000). On the site habitats consists of GS2- Dry Meadows and Grassy Verges which occupies approx. half of the development site, BL3 – Buildings and Artificial Surfaces including the existing buildings proposed for demolition, WS1 – Scrub – along the boundaries of the site and WL2- Treelines which are a prominent feature of the southern and eastern boundaries. Invasive plant species Japanese knotweed (*Reynoutria japonica*) and three-cornered leek (*Allium triquetrum*) were also noted on site as part of the surveys conducted. These and their appropriate treatment is addressed in greater detail under Section 11.10 of this report and therefore shall not be discussed in any greater detail under this current section.

11.15.3. In the course of the survey work on the development site, in June 2021 a single specimen of the bee orchid, a relatively rare species often associated with disturbed ground, was identified. It is proposed to translocate and preserve this within the landscaping of the new development. I note that such an approach to this species' conservation is welcomed by the DAU in their submission.

Badgers

11.15.4. The section of the EclA dealing with terrestrial mammals states, that no badgers or badger activity on the site was noted (during the site surveys in April and June 2021). However, I note the comments submitted from several observers which strongly dispute this claim and the submission of photographic and video evidence of

badger activity in the area. I also noted on my site visit evidence of two burrow entrances on the southern part of the site within close proximity to the southern boundary wall, located under several of the Monterey cypresses (identified as Nos. 933, 934 and 935). While clear burrow entrances were visible there did not appear to be any evidence of recent use (e.g. freshly displaced soil or leaves) at the time of site visit. The DAU submission on file states that the site was investigated by an NPWS staff member following reports by a concerned local resident that the site was used by badgers. The NPWS staff member also noted the burrows on site and has stated that it is highly likely based on the distribution pattern of earth recently excavated from and visible outside the open burrow, that it is a badger sett. I note that reports of obstruction of possible sett entrances on site have also been reported and that interference with a badger sett is an offence under the Wildlife Acts, 1976 to 2021, except under licence from the NPWS or as a result of an action carried out pursuant to any other statute or statutory instrument, including the grant of planning permission. Given the clear lack of thorough investigation on site as part of the terrestrial mammal survey, and also noting the recommendations of the NPWS, I would concur that another badger survey should be carried out before the commencement of any development works on the site and that the applicant also be required to submit to the planning authority for its written agreement a badger conservation plan to include a survey identifying the extent of the burrow system on site, and also to include a methodology for the preservation of this burrow system during the construction of the proposed development. I consider that this should address the concerns of the third parties and the DAU in this regard.

Bats

- 11.15.5. Specifically in relation to bats, a Bat Survey is included within Appendix 1 of the EclA. As part of this survey the three buildings on site which are proposed for demolition were inspected and all were determined to be in good condition with no signs of disrepair or obvious access points for bats. No roosts or signs of bat activity were found. During bat surveys of the site, carried out in April and June 2021 foraging over the site by one species of bat, the soprano pipistrelle, was detected, mainly along the belt of trees next to Cross Avenue. While no actual bat roosts were identified on the development site, some of the trees in this belt of trees were recognised as having features which could be used as bat roosts, in particular tree

no. 920, which I acknowledge is to be retained. However, I consider that there is a lack of detail in relation to other trees surveyed on site. I note the submission received on file from the DAU regrading same and their suggested conditions in relation to further pre-commencement assessment which should be required for any trees which are proposed for felling in order to determine their suitability as bat roosts. I would concur with the DAU on this matter given the lack of detailed assessment results presented in the EclA with regard to other trees on site and their suitability for bat roosts. In addition, I note the DAU's comments in relation to any future lighting scheme for the proposed development and the requirement that same should 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. I am satisfied that this requirement can be addressed by way of condition. No potential interaction of the building locations and building materials to impact flight lines and / or collision of bats was identified as part of the EclA.

Birds

- 11.15.6. The bird species noted on site during the Wintering Bird Survey are outlined in Appendix II of the EclA. As outlined the survey included an assessment for qualifying interests of nearby SPA's i.e. "target species" including Brent Geese or Wader species, "neither of which was observed on site at any survey, the relatively small area and high tree surround likely making the site unsuitable, especially given the proximity of much bigger feeding areas nearby (namely the Blackrock playing pitches to the north). The garden areas on the rest of site were also checked at regular intervals. 35 bird species were recorded on-site across the surveys, comprising mainly of passerine species typical of semi-natural, suburban Dublin site. Grey Heron and Little Egret were noted to forage on the green area of site, especially after wet weather (foraging for Earthworms). Herring Gulls were also noted in small numbers foraging on the green with also occasional Black-headed Gulls. The EclA states that as the proposed development is surrounded by tall trees within a suburban environment it would not be expected that there would be a significant potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision of sensitive birds. Standard mitigation measures

are recommended in relation to bird protection on site, including that trees and shrubs will not be removed from the development site during the bird nesting season from the 1st of March to the 31st of August. I am satisfied that subject to the implementation of these measures as part of the development that no significant impacts will occur on bird species that may utilise the site. In addition, in relation to the loss of trees on site, I am satisfied that in the longer term this loss will be mitigated by the nest sites which will become available in the new plantings of trees and shrubs in the landscaping of the proposed development.

Other Species

11.15.7. Neither the common frog or the common lizard were observed on site and there are no water features within the site boundary that could be important to frogs. In addition, given the lack of water courses on site, the proposed development is unlikely to have any impact on other species and none were detected on site surveys.

Potential Impacts

11.15.8. In terms of impacts, it is stated that the development of the site would have direct negative impacts on the existing habitats, fauna and flora within the site, as the majority of existing habitats are to be removed, with the exception of the treeline to the south/ east of the site. Removal of treelines will result in loss of potential nesting sites for garden birds. During construction, excavation has the potential to create noise, dust, light and surface water impacts if left unmitigated. The surface water connection via the existing surface water drainage network and to Natura 2000 sites is noted. Mitigation measures in relation to surface water, dust and light pollution are also included in Table 6 of the EclA (see detailed discussion of potential impacts on Natura 2000 sites in Section 13 'Appropriate Assessment' of this report). No significant ecological impacts are expected during the operational phase of the development. The planting of native species is suggested as this would be of benefit to biodiversity. Mitigation measures are set out in the EclA and include, but are not limited to, transplantation in relation to the bee orchid species, appropriate timing of tree removal and protection of those trees to be retained on site, monitoring of ground water levels and filtering of excess water for suspended solids.

11.15.9. An examination of other proposed and permitted developments in the vicinity of the proposed site was carried out as part of the cumulative impact assessment. This

included an assessment of the Frascati Shopping Centre (ABP Ref. 308046) and the Chesterfield SHD (ABP Ref. 302921 - however it should be noted that the decision regarding Chesterfield was subsequently quashed). The assessment included an examination of the cumulative impacts on the Ringshend WWTP as well as cumulative surface water impacts on Dublin Bay. In summary no significant cumulative impacts were determined likely.

Conclusion

11.15.10. The EclA acknowledges that, during the construction phase there will be localised light and noise disturbance. Following the implementation of the mitigation measures set out in the report, the EclA concludes that the construction and operational phases will not have a significant impact on biodiversity and designated sites. In conclusion then, I consider that, subject to the recommendations of the appraisal being carried out and those additional measures outlined by the DAU in relation to bats, badgers, CEMP, lighting, removal of trees and invasive species, there would no significant ecological impact arising from either the construction phase or from the operational phase of the development.

11.16. **Other Matters**

Part V

11.16.1. The applicant states that they have consulted with DLRCC's Housing Department and have reached an agreement in principle to lease 25 no. units on-site to DLRCC on a long term basis for 25 years, in order to comply with the requirements of Part V of the Planning and Development Act 2000 (as amended). The units agreed comprised 2 no. studios, 13 no. one bedroom apartments and 10 no. two bedroom apartments. A site layout plan indicating the units to be leased is submitted, along with costings. However, the report of DLRCC Housing Department dated 27th September 2021, states that the applicant's proposal is not capable of complying with the requirements of Part V of the Planning and Development Act, 2000, as amended, and of the County Development Plan and Housing Strategy due to the high market rents. In the alternative, the Council will consider the provision of 10% of the land in order to comply with the provisions of the Planning and Development Act, 2000, as amended. This and other available compliance options will be considered should planning permission be obtained. It is therefore recommended by DLRCC

that should a decision be made to grant planning permission for the proposed development a condition be attached requiring the applicant/developer to enter into an agreement in accordance with Part V of the Planning and Development Act 2000, as amended, prior to commencement unless the applicant/developer should have applied for and been granted an exemption certificate under section 97 of the Acts.

- 11.16.2. With regard to the above I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the planning authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. I note that in the case of the current site a Letter of Consent submitted with the application from The Libermann Trust states that the lands were purchased by the applicant in November 2020. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

Boundary Treatment

- 11.16.3. Details of the existing and proposed boundary treatments are included on the submitted drawing titled 'Boundary Treatment Plan' and detailed in the Landscape Design Proposals Report under Section 3.4. The site is currently not bound to the east. A line of existing avenue trees line outside the application area. This boundary, as well as a large portion of the northern boundary are to be enclosed in full with an ornate railing c. 2.1m in height. The southern boundary is made up of a continuous granite stone random rubble wall, approx. 1.5m in height which is to be removed to open the development up. A 14m to 20m setback to the site boundary is to be maintained on Cross Avenue to allow for an adequate roots protection zone. The northern boundary is an existing retaining wall requiring 'shoring up'. The existing wall along the north western portion of the site is to be augmented and adjacent to this proposed new railing is to be placed on the retaining wall in this area. The western boundary with the existing Saint Margaret's and Goleen House dwellings is a combination of fence and wall which it is proposed will be retained and augmented, with new trees to be planted along this boundary. Proposals are shown on Drawing No. L1-901 titled 'Details – Boundary Conditions' but it is not clear if these relate to

this boundary. Given that there appears to be some lack of detail regarding the proposed augmentation to the western boundary I would suggest that should the Board be minded to grant permission, full details of the proposed boundaries should be submitted to the planning authority for agreement prior to commencement of development. In addition, I would suggest in the interest of permeability and connectivity that the possibility of providing for a future opening in the northern boundary should be investigated and where feasible agreed with the planning authority.

Taking in Charge

- 11.16.4. The applicant has noted in their application form that it is not intended that any part of the application site is to be taken in charge by the planning authority. I note that the planning authority consider this to be acceptable given the configuration and characteristics of the subject site and the nature of the proposed development. I have no objection to this.

Archaeology

- 11.16.5. An Archaeological Assessment (dated June 2021) has been submitted with the application. This report stated that there are two recorded monuments within 500m of the proposed development, the nearest of these is a tower house (DU023-004), situated c. 455m to the northwest on Booterstown Avenue. A Martello Tower (DU023-002) is recorded c. 476m north. No areas of archaeological potential were identified during the field inspection; however, the report states that it remains possible that ground disturbances associated with the development may result in an adverse impact on previously unrecorded archaeological features or deposits that have the potential to survive beneath the current ground level, with no surface expression and archaeological monitoring is therefore proposed. The submission from the Development Applications Unit (DAU), recommends conditions in relation to such monitoring and subject to the imposition of appropriate conditions as relates to archaeological monitoring I am satisfied that no significant negative impact on archaeology will result from the proposed development.

11.17. Planning Authority Concerns

- 11.17.1. The planning authority have recommended that the application be refused for four reasons. Firstly, by reason of the proposed developments overall scale, height

(notably buildings B and C) and visual prominence within the existing streetscape and the impact that same would have on the character of the area. Secondly, having regard to the suburban location of the application site and quantum of car parking spaces proposed which is considered insufficient at 0.29 spaces per unit and the resultant impacts this would have on on-street car parking pressures and traffic hazard. Thirdly due to the layout and stacked nature of cycle parking and access/egress arrangements from the basement car park which is considered contrary to the operative CDP, Council standards and the Apartment Guidelines. The fourth and final reason for refusal recommended by the planning authority relates to the impact on the site's character and natural heritage due to the impact on the significant mature tree population within the site and also as with regard to the above podium tree planting which the planning authority do not consider is achievable due to the insufficient soil depths provided.

11.17.2. In relation to Refusal Reason No.1, I have considered the issues raised above in Sections 11.5 of this report. In summary, I do not concur that the proposal would have a negative impact on the character of the surrounding area, having regard to the existing screening provided by tree coverage on the southern and eastern boundaries of the site, and the reductions in height in proximity to the properties at Goleen and St. Margaret's and the separation distances involved, as well as the proposed design of the development. While I concur that the proposal would represent a material contravention of the operative CDP (see Section 11.5.12 to 11.5.16), I do not consider the proposal is contrary to the Building Heights Guidelines.

11.17.3. I have considered the issues raised in the second refusal reason in Section 11.3 above and notwithstanding the concerns expressed by the Planning Authority in relation to reduced car parking provision, I am generally satisfied in this regard and I am therefore not recommending that the Board refuse permission based on the level of parking being proposed. I consider the parking strategy, as proposed, to be acceptable in this instance. I am of the opinion that a 'one size fits all' approach is not appropriate in this instance and a site-specific approach is required in terms of overall design, layout and parking provision. This site-specific approach to parking provision is advocated in national guidance. I am also of the opinion that the proposed site is such that it largely satisfies the criteria set out in section 8.2.4.5 of the operative CDP in relation to reduced car parking standards for appropriate

development. I am also satisfied that the proposal is in compliance with Policy ST3 of the operative County Development Plan by effecting a modal shift from the private car to more sustainable modes of transport, including carsharing provisions. Given the highly accessible location of the site to a range of existing services and amenities in the area, large employment locations and the proximity to the DART and several Dublin Bus routes it is considered that future residents of the development can access employment and leisure facilities easily by alternative modes of transport to the private car. This is demonstrated by the high levels of commuting by sustainable modes of transport existing in the area as set out in the Mobility Management Plan.

11.17.4. I have considered the issues raised in Refusal Reason No.3 under Sections 11.13.8 and 11.13.9 of this report. In summary I do not consider that the cycle parking arrangements merit a refusal of the development and also that the access and egress issues identified are not insurmountable. Subject to these issues being addressed through the use of appropriate conditions I consider the proposal will be acceptable.

11.17.5. In relation to Refusal Reason No.4, I have addressed the planning authority's concerns under Sections 11.9 of this report and I consider that the proposed development has sufficiently retained the majority of the mature tree population on site and has also put forward appropriate proposals to integrate the development with the site's existing character.

11.17.6. In conclusion, I have fully considered the planning authority's recommendation to refuse the application for the four stated reasons (stated in full in Section 8.5 above). Having regard to the foregoing matters, alongside the wider assessment set out in my report (both above and below), I have decided to recommend that the application be approved subject to conditions.

11.18. Material Contravention

11.18.1. This is a complex file in terms of the number of material contraventions being put forward by the various parties, including submissions received from third parties relating to material contraventions of the operative CDP resulting from the proposed development. Differences between parties are evident as to what matters constitute material contraventions or otherwise. Having regard to all of the information received and in the interests of clarity, I will summarise the matters of material contravention,

as I see it. I will not reiterate the points made within my assessment above but refer to relevant sections within this report.

11.18.2. The applicant has submitted a Material Contravention Statement. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended). The issues raised in the applicant's Material Contravention Statement relate to the following may represent 'potential' material contraventions of the operative CDP:

- The 'INST' (Institutional) designation, open space and tree protection
- The 'INST' (Institutional) designation and density
- The 'INST' (Institutional) designation and masterplan
- Car Parking
- Quantitative apartment standards: Dual Aspect, Unit mix, unit size, storage, private amenity space, dual aspect and separation between blocks.
- Building Heights

11.18.3. While the planning authority raises concern in relation to all of the matters above and recommends refusal of permission on many of these grounds (see Section 8.5), they do not state that any matter represents a material contravention of the operative CDP. Although I do note that they state that Building Height would be contrary to the policies and guidelines of Appendix 9 (Building Height Strategy) of the operative CDP and the Urban Development and Building Heights Guidelines for Planning Authorities (2018, DoHPLG), and also that the proposed development is considered to be contrary to planning authority's 'Standards for Cycle Parking and associated Cycling Facilities for New Developments - January 2018', Section 8.2.4.7 (Cycle Parking) of operative CDP.

11.18.4. I am of the following opinion in relation to Material Contravention:

'INST' Designation, Open Space and Tree Protection Requirements - See Sections 11.4.11 - 11.4.21 above for further details.

11.18.5. Open to the Board to invoke section 37(2)(b) of P&D Act 2000 having regard to section 37(2)(b) as the matter has been addressed in Material Contravention Statement, though the applicant makes no specific reference to which subsection(s)

may apply. I consider that the proposal does not represent a material contravention in this regard.

‘INST’ Designation and Density – see Sections 11.4.22 to 11.4.29 above for further details

11.18.6. I also consider that the proposal does not represent a material contravention in relation to density. However, if the Board do consider this to be a material contravention, they may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i), (ii), (iii) and (iv).

‘INST’ Designation & Masterplan – see Sections 11.4.5 and 11.4.10 above for further details.

11.18.7. I consider that the submitted masterplan has adequately taken account of the built heritage and the natural assets of the site, as well as any established recreational use patterns. Public access has also been taken into account. Therefore, I consider the submitted masterplan is in accordance with the requirements of Section 8.2.3.4 (xi) of the operative CDP and does not represent a material contravention of the operative CDP.

The applicant does not specifically state if they consider the proposal materially contravenes the operative CDP in this regard, however they have included the matter in their Material contravention Statement and therefore it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 should they see it necessary.

Car Parking - see Sections 11.13.18 and 11.13.20 above for further details.

11.18.8. I note that the matter of car parking has been addressed in the submitted Material Contravention Statement, although the applicant does not state that the proposal represents a material contravention in this regard. I also consider that the proposal does not represent a material contravention in relation to car parking. However, if the Board do consider this to be a material contravention, they may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i), (ii) and (iii) (NPO13 and Apartment Guidelines).

11.18.9. **Quantitative Apartment Standards: Dual Aspect, Unit Mix, Unit Size, Storage, Private Amenity Space, and separation between blocks** - see Sections 11.7 above for further details.

11.18.10. Open to the Board to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, having regard to section 37(2)(b)(i), (ii) and (iii), as matter has been addressed in Material Contravention Statement. I consider that the proposal does not represent a material contravention.

Building Heights - see Section 11.5 and 11.5.12 to 11.5.16 above for further details.

11.18.11. Open to the Board to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, having regard to section 37(2)(b)(i) and (iii), as matter has been addressed in Material Contravention Statement. I consider that the proposal does represent a material contravention.

12.0 Environmental Impact Assessment (EIA) Screening

12.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report (dated May 2021) and I have had regard to same. The report concludes that the proposed development is below the thresholds for mandatory EIAR and that a sub threshold EIAR is not required in this instance as the proposed development will not have significant impacts on the environment.

12.2. Section (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

(i) Construction of more than 500 dwelling units,

(iv) Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

12.3. The proposed development involves 244 no. residential units on a site with a stated area of c. 1.544 ha and is therefore well below both of the above thresholds. The site

is located within a built-up area and not a business district. Therefore, in order to determine whether the proposed development requires EIA, the criteria set out in schedule 7 of the regulations, and those at Annex III of the EIA directive 2011/92/EU as amended by 2014/52/EU, should be applied with regard to the characteristics and location of the proposed development, and with regard to the type and characteristics of its potential impact.

12.4. Article 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The application was accompanied by an EIA screening report that includes the information set out in schedule 7A to the regulations.

12.5. Article 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts and all other submissions. I have also considered all information which accompanied the application including inter alia:

- Planning Report including;
 - Statement of Consistency with Planning Policy.
 - Response to An Bord Pleanála Opinion.
 - Material Contravention Statement.
- Site Specific Flood Risk Assessment.
- Engineering Planning Report.
- Traffic and Transportation Assessment
- Environmental Impact Assessment (EIA) Screening Report.

- Appropriate Assessment (AA) Screening Report & Natura Impact Statement (NIS).
- Ecological Impact Assessment (EclA).
- Statement of accordance with article 299B (1)(b)(ii)(II)(C).
- Car Parking Management Plan.
- Stage 1 Stormwater Audit.
- Irish Water – Statement of Design Acceptance.
- Daylight and Sunlight Reports.
- Public Lighting Report and Drawings.
- Sustainability & Energy Report.
- NZEB Compliance and DEAP Assessment Report.
- Environmental Noise Survey.
- Operational Waste and Recycling Management Plan.
- Outline Construction Environmental Management Plan (CEMP).
- Landscape Design Rationale.
- Landscape Masterplan.
- Outline Construction and Demolition Waste Management Plan.
- Outline Construction Management Plan.
- Architectural Heritage Impact Assessment (AHIA).
- Archaeology Assessment.
- Tree Assessment and Drawings.
- Japanese Knotweed Management Plan.
- Three Cornered Leek Management Plan.
- Townscape and Visual Impact Assessment.

12.6. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be

likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered.

12.7. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account I would note that the following assessments / reports have been submitted:

- An AA Screening and NIS have been submitted with the application, in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
- An Outline Construction Environmental Management Plan, Outline Construction and Demolition Waste Management Plan, Operational Waste and Recycling Management Plan and Outline Construction Management Plan have been submitted that address the requirements under the EU Waste Framework Directive and EC Environmental Noise Directive and Clean Air for Europe Directive and the Directive 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites.
- As per the EIA Screening Report, the subject lands are not proximate to any Seveso/COMAH designated sites and therefore the Seveso III Directive is not directly relevant. In addition it is noted that the Industrial Emissions Directive is not directly relevant to the proposed housing development, and the proposed development will not directly involve industrial activities under the Directive. As a housing development project, Regulation 1315/2013 Trans-European Networks in Transport, Energy and Telecommunication Regulations is not directly relevant to the project.
- A Site Specific Flood Risk Assessment, has been submitted, which ensures effective management of flood risk, and which has had regard to 'The Planning

System and Flood Risk Management Guidelines for Planning Authorities’ (DoEHLG & OPW, 2009), and was undertaken in response to the EU Floods Directive.

- A Sustainability & Energy Reports, NZEB Compliance and DEAP Assessment Report and Building Lifecycle Report (Part L Report) have all been submitted with the application undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings.
- The Noise Survey results submitted rely on standards derived under or related to the EU Environmental Noise Directive.

12.8. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening. I also note the SEA has been undertaken of the Dun Laoghaire Rathdown County Development Plan 2016-2022 in accordance with the SEA Directive (2001/42/EEC).

12.9. I have completed an EIA Screening Assessment as set out in Appendix 1 of this report. Thus, having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Class 10 (b) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended);
- (b) The location of the site on lands zoned Objective ‘A’ *To protect and-or improve residential amenity* and with a specific local objective *to protect and/or provide for Institutional Use in open lands* in the Dun Laoghaire Rathdown Development Plan 2016-2022.
- (c) the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (d) the availability of mains water and wastewater services to serve the development;
- (e) the location of the development outside any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations, 2001 (as amended);
- (f) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003);

- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended), and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Environmental Management Plan, Outline Construction and Demolition Waste Management Plan and Operational Waste and Recycling Management Plan, Natura Impact Statement, Ecological Impact Assessment, Flood Risk Assessment, Archaeological Assessment, Arboricultural Report and Architectural Heritage Impact Assessment

I am satisfied that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

13.0 Appropriate Assessment

13.1. Introduction

- 13.1.1. This section of my report considers the likely significant effects of the proposal on European sites, with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening and Natura Impact Statement (NIS) prepared by Altemar Marine and Environmental Consultancy, dated 17th August 2021 and submitted with the application.
- 13.1.2. I have had regard to the submissions of observers and the DAU (NPWS) also in relation to the potential impacts on Natura 2000 sites.

13.2. The Project and its Characteristics

- 13.2.1. The detailed description of the proposed development can be found in Section 3 above.

13.3. Stage 1 Screening - The European Sites Likely to be Affected

- 13.3.1. The development site is not within or directly adjacent to any Natura 2000 site. The site is located in a developed urban area, adjacent to existing residential development to the west, and educational uses including Blackrock College and Sion

Hill schools to the north and east, Cross Avenue runs along the south of the site. The site is comprised of GS2- Dry Meadows and Grassy Verges which occupies approximately half of the development site, BL3 – Buildings and Artificial Surfaces including the existing buildings proposed for demolition, WS1 – Scrub – along the boundaries of the site and WL2- Treelines which are a prominent feature of the southern and eastern boundaries.

13.3.2. I have had regard to the submitted Appropriate Assessment Screening which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number of Natura 2000 sites sufficiently proximate or indirectly linked to the site which require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

Table 13.1 - European Sites/Location and Qualifying Interests		
European Site (code)	Distance to Development	Qualifying Interests/ Conservation Objectives
SAC		
South Dublin Bay SAC (000210)	0.5 km	The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets: Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
North Dublin Bay SAC (000206)	5.4 km	The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets: Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]

		<p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>
<p>Rockabill to Dalkey Island SAC (003000)</p>	6.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>
<p>Wicklow Mountains SAC (002122)</p>	9.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p>
<p>Howth Head SAC (000202)</p>	9.7 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
<p>Knocksink Wood SAC</p>	9.9 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition</p>

(000725)		<p>of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p>
Ballyman Glen SAC (000713)	10.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>
Baldoyle Bay SAC (000199)	11.1 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1310 <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)</p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p>
Glenasmole Valley SAC (001209)	12.6 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p>
Bray Head SAC (000714)	13.3 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Ireland's Eye SAC (002193)	13.8 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitat, as defined by specific attributes and targets:</p> <p>1220 Perennial vegetation of stony banks</p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p>

SPA		
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>0.5 km</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]</p>
<p>North Bull Island SPA (004006)</p>	<p>5.4 km</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162]</p>

		Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
Dalkey Islands SPA (004172)	6.7 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA, as defined by specific attributes and targets: Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]
Wicklow Mountains SPA (004040)	9.5 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA, as defined by specific attributes and targets: Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]
Baldoyle Bay SPA (004016)	11.1 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA, as defined by specific attributes and targets: A046 Brent Goose (<i>Branta bernicla hrota</i>) A048 Shelduck (<i>Tadorna tadorna</i>) A137 Ringed Plover (<i>Charadrius hiaticula</i>) A140 Golden Plover (<i>Pluvialis apricaria</i>) A141 Grey Plover (<i>Pluvialis squatarola</i>) A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) A999 Wetlands
Howth Head Coast SPA (004113)	13.3 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA, as defined by specific attributes and targets: Kittiwake (<i>Rissa tridactyla</i>) [A188]
Ireland's Eye SPA (004117)	13.5 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA, as defined by specific attributes and targets: Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]

- 13.3.43. In addition, the AA screening section of the submitted document outlines through figures 16 and 17 (inclusive), the mapped geographical spread of sites and proximity to the subject site.
- 13.3.44. The potential Zone of Influence (Zol) of the proposed project would be seen to be restricted to the site outline with potential for minor localised noise, dust and light impacts during construction. However, drainage from site, both foul and surface water, would be seen as outputs from the site during construction and operation that could potentially extend to other Natura 2000 sites. The proposed surface water connection would flow to the public surface water network on Mount Merrion Avenue which discharges in turn to Dublin Bay near Blackrock Park. This public surface network discharges proximate to two Natura 2000 sites, the South Dublin Bay SAC and the South Dublin Bay and River Tolka SPA. As a result, further information on the current and proposed drainage strategy, flood risk assessment and the Outline Construction Management Plan is provided in the applicant's submitted report.
- 13.3.45. The specific qualifying interests and conservation objectives of each site are also described in Table 13.1 above. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.
- 13.3.46. The submission from the IFI refers to the need to implement measures to prevent impacts on surface water and refer to the capacity of Ringsend WWTP. I have had regard to observer comments as relates to Appropriate Assessment which state that compliance with the Habitats Directives must be ensured.
- 13.3.47. The submitted AA Screening Report considers the significance of potential effects on the above listed designated sites (Table 13.1 refers) with regard to the relevant conservation objectives. Having regard to the species listed as qualifying interests, there is no pathway for effects to occur to terrestrial habitats or terrestrial species associated with the above Designated Sites. I note that there is no intact biodiversity corridor to Natura 2000 sites.

- 13.3.48. I note that the applicant has acknowledged that there is a minor watercourse, the Brewery Stream, located to the south east of the subject site which discharges to the marine environment of Dublin Bay, which is approximately 500m north of the site (Figures 18 and 19 of the submitted report refer to the location). From an examination of the submitted information I note that this stream is located a distance of c.312m from the site and separated by the existing urban environment, I am satisfied that there is consequently no direct pathway from the site to any of the above listed sites via surface water.
- 13.3.49. The Screening Report states that the proposed development would have an indirect pathway and connectivity to the South Dublin Bay SAC and the South Dublin Bay and River Tolka SPA, during construction via the surface water network (which leads to Mount Merrion Avenue) and during operation with surface water discharging to the existing 900mm concrete surface water sewer on Mount Merrion Avenue, which in turn discharges into Dublin Bay near Blackrock Park. There is also an indirect pathway to these two sites via the foul sewer network with treatment at Ringsend WWTP. Given the discharge point close to Blackrock Park for surface water, these two sites have been considered further in the submitted report. I consider this approach appropriate, and I have outlined my further assessment of these sites also under Section 13.4 below.
- 13.3.50. I note that Table 2 of the Screening Report rules out likely significant effects on all other Natura 2000 sites referred to within the Screening Report, either as a result of the lack of a pathway or connection to same and/or the distance from the relevant Natura 2000 site. I consider this acceptable when considering that there is no terrestrial link to these other designated sites from the proposed development site, or evidence that qualifying interests of these sites utilise the proposed site or would be likely to be impacted from construction or operational impacts from the site. In relation to the other water dependant SACs and SPAs located in the northern area of Dublin Bay and also coastal SACs/SPAs to the south east of the site, taking into consideration the minimal effluent discharge from the proposed development works (to be treated at Ringsend WWTP and discussed further below), the distance between the proposed development site and these designated conservation sites in the Bay, the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites and the dilution effect with surface water runoff and following this,

seawater, I am satisfied that this development would not give rise to any significant effects to these other designated coastal sites. I am therefore satisfied that the only two sites to be carried forward for further assessment are the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.

13.4. Inspectors Screening Report

13.4.1. Having regard to the potential ZOI and the submitted AA document, the following Natura 2000 sites are identified as requiring further consideration for potential impacts due to possible indirect hydrological connections between the development and the European Sites in Dublin Bay via the surface water drainage network and the foul sewer network:

- South Dublin Bay SAC (000210) and
- South Dublin Bay and River Tolka Estuary SPA (004024)

13.4.2. The Qualifying Interests/Special Conservation Interests of the South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024), are described under Table 13.1 above, their current conservation status, attributes, measures and targets are expanded upon in Tables 4 and 5 of the applicant's submitted document.

South Dublin Bay SAC (000210):

13.4.3. This site is comprised of an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake. The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes): [1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes. The bed of Dwarf Eelgrass (*Zostera noltii*) found below Merrion Gates is the largest stand on the east coast. Green algae (*Enteromorpha spp.* and *Ulva lactuca*) are distributed throughout the area at a low density. Furoid algae occur on the rocky shore in the Maretimo to Dún Laoghaire area. Species include *Fucus spiralis*, *F. vesiculosus*, *F. serratus*, *Ascophyllum nodosum* and *Pelvetia canaliculata*. Several small, sandy beaches with incipient dune formation occur in the northern and western sectors of the site, notably at

Poolbeg, Irishtown and Merrion/ Booterstown. A small area of pioneer saltmarsh now occurs in the lee of an embryonic sand dune just north of Booterstown Station. This site is a fine example of a coastal system, with extensive sand and mudflats, and incipient dune formations. South Dublin Bay is also an internationally important bird site.

South Dublin Bay and River Tolka Estuary SPA (004024):

- 13.4.4. The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern. The E.U. Birds Directive pays particular attention to wetlands, and as these form part of the SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

The site is an important site for wintering waterfowl, being an integral part of the internationally important Dublin Bay complex. Although birds regularly commute between the south bay and the north bay, recent studies have shown that certain populations which occur in the south bay spend most of their time there. An internationally important population of Light-bellied Brent Goose occurs regularly and newly arrived birds in the autumn feed on the Eelgrass bed at Merrion. At the time of designation the site supported nationally important numbers of a further nine species: Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank and Black-headed Gull. Other species occurring in smaller numbers include Great Crested Grebe, Curlew and Turnstone. Little Egret, a species which has recently colonised Ireland, also occurs at this site. South Dublin Bay is a significant site for wintering gulls, with a nationally important population of Black-headed Gull, but also Common Gull and Herring Gull. Mediterranean Gull is also recorded from here, occurring through much of the year, but especially in late winter/spring and again in late summer into winter. Both Common Tern and Arctic

Tern breed in Dublin Docks, on a man-made mooring structure known as the E.S.B. dolphin – this is included within the SPA.

Potential effects on Designated Sites

- 13.4.5. The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites. However, as the site is formed of existing grassland and in light of its proximity to the South Dublin Bay and River Tolka Estuary SPA, it may represent suitable in-land feeding area for light-bellied brent goose and other wintering bird species which may forage inland. I note that winter bird surveys were carried out from November 2020 to March 2021 (Appendix 1 of AA Screening Report refers), with two surveys completed for each month and I am satisfied that the submitted data is sufficient for the purposes of my assessment of potential impacts. No sightings of brent geese or signs of use by geese were recorded within the site's redline boundary area. However, light-bellied brent geese were frequently recorded within the lands to the north at the Blackrock College's playing pitches. No significant impacts on these species are expected however given the distance from the proposed site and also the intervening buildings and developed lands. The survey results submitted indicate that the proposed development site is not important for wintering birds and the qualifying interests of any SPA listed. In addition, the submitted report states that any noise from construction or operational works would be localised to the vicinity of the site. There are intervening buildings, main roads, a train line and Blackrock Park between the proposed development site and this SPA and therefore any noise from the works would be deemed to have a negligible impact on the qualifying interests due to the distance and existing background noise levels in the vicinity of the SPA.
- 13.4.6. The project is limited in scale and extent and the potential ZOI is seen to be restricted to the immediate vicinity of the proposed development. However as mentioned previously it should also be noted that there is an indirect pathway to the surface water networks on Mount Merrion Avenue, which discharge in the vicinity of Blackrock Park. In relation to this I note that it is proposed to discharge the stormwater drainage within the site to the existing 900mm concrete surface water sewer on Mount Merrion Avenue by gravity. This will require approximately 140m of new 225mm surface water sewer to be laid along Cross Avenue. This will in turn as

stated previously then discharge to the Bay near Blackrock Park, 0.5km to the north. The applicant states that there therefore exists a potential pathway by which silt mobilised from the development site could enter the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA. Similarly, they state that oil or other chemicals accidentally discharged from the site could reach these European sites by the same pathways and by causing a deterioration in water quality effect the QIs or SCIs for the SAC and/or SPA. Therefore, Table 2 of the applicant's submitted Screening Report notes and concludes that significant effects on the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are possible from the proposed works, as a result surface water entering the bay via the surface water network during construction and operation, and foul water network during operation. The report goes on to further state that mitigation measures will be required to ensure protection of the surface water quality and prevent impact on this SAC. There would appear to be typo on page 31 of the report where Table 2 refers to the SAC under the assessment of potential significant effects on the South Dublin Bay and River Tolka Estuary SPA. I note that direct impacts on bird species as a result of possible noise has been ruled out but again indirect pathways to this site via the surface water network and foul water networks and possible impacts as a result on the SPA were not ruled out. The applicant's submitted report states that based on the precautionary principle and the fact that the project will utilise mitigation measures to prevent impacts on the surface water network, which is only 500m from this SAC and SPA, a NIS is deemed appropriate, as significant effects on the integrity of this site cannot be ruled out in the absence of mitigation measures. In addition, any foul water on site shall also be indirectly connected to designated sites via the public foul water network which ultimately discharges to Ringsend Waste Water Treatment Plant (WWTP) for treatment.

- 13.4.7. Having examined the submitted information I consider that the only likely significant risks to the above two European sites arise from potential construction and/or operation related surface water discharges from the development site and the potential for these effects to reach the downstream European sites. I found no evidence to the contrary in my assessment or in the contents of the submissions received. The following points are noted in this regard:

- The nature and scale of the proposed development being a moderately sized residential development on serviced land.
- The development cannot increase disturbance effects to birds in Dublin Bay given its distance from these sensitive areas. There are no sources of light or noise over and above that this is already experienced in this built-up, urbanised location.
- Habitats on the site are not suitable for regularly occurring populations of wetland or wading birds which may be features of interest of the South Dublin Bay and River Tolka Estuary SPA. The development will not lead to any decrease in the range, timing, or intensity of use of any areas within any SPA by these SCI bird species. The development will not lead to the loss of any wetland habitat area within the SPA. No ex-situ impacts can occur.
- The submitted report states that the proposed development will make a very small contribution to the overall capacity of the licensed WWTP at Ringsend. While there are capacity issues at the plant, substantial upgrades to capacity are expected to be delivered over the medium term. Water quality assessments undertaken in Dublin Bay confirms that Dublin Bay is classified as “unpolluted” and there is no evidence that operations from the WWTP are affecting the conservation objectives of the European sites in Dublin Bay. It is therefore assessed that the proposed development in combination with the WWTP won't have any significant effects on any European sites (Section 13.5 below refers).
- I note that Table 6 of the applicant's AA document refers to 'mitigation' measures, which I consider to be standard construction management measures which would be implemented to control the possibility of potential pollutants exiting the site during construction and operation (in respect of SUDs). These measures are also detailed in the Engineering Report, the EclA, the Outline Construction Environmental Management Plan and the Outline Construction & Demolition Management Plan and include surface water management, material storage, waste management and other environmental management measures. These works/measures are described in the submitted AA document as 'mitigation measures', however they could

be described as a standard approach for construction works in an urban area, and it should be noted that their implementation would be necessary for a residential development on any site in order to protect the surrounding environs regardless of proximity or connections to any European Site or any intention to protect a European Site. I am satisfied that the measures outlined are typical and well proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission.

- Noise from the works would be localised to the vicinity of the site. There are intervening buildings, main roads a train line and Blackrock Park between the proposed development site and the SPA. Noise from the works would be deemed to have a negligible impact on the SCIs due to the distance and existing background noise levels in the vicinity of the SPA.
- In order to restrict surface water drainage sustainable drainage systems (SuDS) will be implemented. This will include rainwater harvesting, green roofs, permeable surfacing, infiltration trenches, rain gardens and attenuation tanks. In addition, the basement car park area will outfall via a Class 1 Bypass Separator. The SUDS measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site.
- I also consider that, even if the aforementioned best practice construction management measures were not in place, the possibility of significant effects on designated sites is unlikely given the nature and scale of the development, the intervening distance between the development and the designated sites and the resultant dilution factor with regard to the conservation objectives of the relevant designated sites and habitats and species involved. I therefore do not include these measures as 'mitigation measures' for the purposes of protecting Natura sites.

13.4.8. I am therefore satisfied that, notwithstanding that the applicant has carried out Stage 2 AA, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

13.5. In-combination Effects

- 13.5.1. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dun Laoghaire Rathdown County Development Plan 2016-2022 covering the location of the application site. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. While this project will marginally add to the loadings of the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment Plant (works extension permitted under ABP – PL.29N.YA0010) and the facility is currently operating under EPA licencing which was subject to AA Screening. Similarly, I note neither the planning authority nor the DAU raised AA concerns in relation to the proposed development.
- 13.5.2. The submitted AA document also considers the in the combination effect of plans and projects to Natura 2000 Sites, alongside the proposed development. This includes consideration of those projects listed in the report which include the Frascati Shopping Centre (ABP Ref. 308046) and the Chesterfield SHD (ABP Ref. 302921 – decision since quashed) both of which screened out further assessment given that no likely significant effects were identified. No residual impacts are expected in combination with either of these developments or indeed any other permitted developments within the area. No potential for habitat loss associated with the proposed development is identified that would either alone, or cumulatively, affect the special conservation interest populations of any SPA species' populations or distribution or the qualifying interests of any SAC species or habitats. Therefore, no mitigation is required in this regard.
- 13.5.3. The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any SAC or SPA. In addition there are no projects which can act in combination with the development which can give rise to significant effects to Natura 2000 sites.

13.6. AA Conclusion and Screening Determination

- 13.6.1. Therefore, in conclusion, having regard to 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 outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required, notwithstanding that the applicant has submitted a Stage 2 NIS.
- 13.6.2. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

14.0 Recommendation

- 14.1.1. Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

15.0 Reasons and Considerations

- 15.1. Having regard to the following:
- (a) the site's location within an area with a zoning objective that permits residential development in principle;
 - (b) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
 - (c) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
 - (d) the policies and objectives set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022

- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All, A New Housing Plan for Ireland, 2021
- (f) the Guidelines for Sustainable Residential Developments 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
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- (i) the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) the Design Manual for Urban Roads and Streets, DMURS 2013,
- (l) the pattern of existing and permitted development in the area
- (m) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including the Luas Green Line;
- (n) the planning history of the site and area;
- (o) the submissions and observations received,
- (p) the Chief Executive's Report of the planning authority and associated appendices, including the recommended reasons to refuse permission; and
- (q) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this location, would not seriously injure the residential or visual amenities of the area or property in the vicinity, would respect the existing character of the area, would be acceptable in terms of urban design and height and would be

acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 Recommended 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 23rd day of August 2021 by McGill Planning Ltd., on behalf of 1 Players Lands Ltd.

Proposed Development: Planning permission for a strategic housing development at this site of c.1.5441 ha at Cross Avenue, Blackrock, Co. Dublin. The application site includes lands formerly part of/owned by Blackrock College.

The development will include the demolition of the existing buildings on site, Tower Green and Clareville, along with the associated outbuildings and existing wall along the southern boundary. It will include the construction of:

- A 'Build to Rent' (BTR) apartment development consisting of 3 no. blocks ranging in height up to 9 storeys (and including basement).
- 244 no. apartments are proposed comprising 18 no. studios, 122 no. 1 - beds, 100 no. 2-beds & 4 no. 3-beds.
- All residential units provided with associated private balconies/terraces to the north/south/east/west elevations.
- The BTR development will also include Resident Support Facilities & Resident Services & Amenities (total floor area c.733.4 sq.m) including lobby and café, concierge, management, co working area, meeting areas, hire hub, multipurpose areas, relaxation/ sitting area, parcel area, pet wash, fitness area, and residents lounge/ private dining.
- Provision of 71 no. car parking spaces in the basement and one setdown area at surface level, 479 no. cycle parking spaces and 10 no. motorcycle spaces. Vehicular/pedestrian/cyclist access from Cross Avenue.
- All associated site development works, open spaces, roof gardens, landscaping, boundary treatments, plant areas, waste management areas, cycle parking areas, and services provision (including ESB substations).

Decision:

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations set out hereunder 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 site's location within an area with a zoning objective that permits residential development in principle;
- (b) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (c) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- (d) the policies and objectives set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All, A New Housing Plan for Ireland, 2021
- (f) the Guidelines for Sustainable Residential Developments 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
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities 2018;

- (i) the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) the Design Manual for Urban Roads and Streets, DMURS 2013,
- (l) the pattern of existing and permitted development in the area
- (m) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including the Luas Green Line;
- (n) the planning history of the site and area;
- (o) the submissions and observations received,
- (p) the Chief Executive's Report of the planning authority and associated appendices, including the recommended reasons to refuse permission; and
- (q) the report of the Inspector.

The Board, in deciding not to accept the refusal recommendations as contained in the Report of the Chief Executive of the Planning Authority, agreed with the Inspector's assessment and recommendation on those matters.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on 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 indirect hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such

sites, and that a Stage 2 Appropriate Assessment is not, therefore, required. In particular, the Board agreed with and adopted the Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required notwithstanding the submission of an NIS by the applicant for permission which proceeded on the basis that a Stage 2 Appropriate Assessment was required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment Screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Thus, having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) the location of the site on lands that are zoned for residential uses under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 undertaken in accordance with the SEA Directive (2001/42/EC),
- (d) the pattern of development on the lands in the surrounding area,
- (e) the availability of mains water and wastewater services to serve the development,
- (f) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended),
- (g) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003),

- (h) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- (i) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Outline Construction Environmental Management Plan, Outline Construction and Demolition Waste Management Plan, Outline Construction Management Plan and Operational Waste & Recycling Management Plan, Ecological Impact Assessment, Site Specific Flood Risk Assessment, Arboricultural Report, Archaeological Assessment and Architectural Heritage Impact Assessment.

It is considered that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development

The Board considers that the proposed development is, apart from the Building Height, broadly compliant with the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission could materially contravene the Dún Laoghaire-Rathdown County Development Plan 2016-2022 in relation to the following:

- Building Height: Appendix 9 - Building Height Strategy of the Plan

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan would be justified for the following reasons and consideration.

Building Height:

In relation to section 37(2)(b) (i) and (iii) of the Planning and Development Act 2000 (as amended):

- The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing

development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All, A New Housing Plan for Ireland, 2021 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport.

- It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35) and the Urban Development and Building Height Guidelines for Planning Authorities 2018, in particular SPPR3.

In conclusion, the Board considers that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this location, would not seriously injure the residential or visual amenities of the area or property in the vicinity, would respect the existing character of the area, would be acceptable in terms of urban design and height and would be acceptable in terms of pedestrian and traffic 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. 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 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Apartment nos. C05, C07 and C09 shall be omitted at the ground floor level of Building C and a creche shall be included in their place, with associated direct access to an external play area.
 - (b) In addition to the proposed aluminium screens, additional screening measures should be agreed with the planning authority for the western face of the balconies of Apartments Nos. A15, A-17, A-19, A-32, A-34, A-36, A-49, A-51 and A-53. Any measures proposed should not impact upon the availability of light to these apartments.
 - (c) Supplementary opaque glazing/screening to a height of 1.8m should also be provided on the western facing ends of the balconies of Apartment Nos. A-28, A-29, A-45 and A-46.
 - (d) Future pedestrian routes/cyclist permeability links shall be provided for right up to the site's northern boundary with the access road to Blackrock College to allow for potential future pedestrian/cyclist links subject to appropriate consents.

Revised drawings showing compliance with the above requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

In the default of agreement the matter(s) in dispute shall be referred to an Bord Pleanála for determination.

Reason: In the interest of visual and residential amenity and pedestrian/cyclist and traffic safety.

3. This grant of planning permission permits 241 number apartment units.

Reason: In the interest of clarity.

4. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme. This covenant or legal agreement shall also highlight the reduced level of car parking available to future residents.

Reason: In the interests of proper planning and sustainable development of the area.

6. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

8. Proposals for an apartment naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development

shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. Prior to commencement of development the applicant shall ensure that the demolition of the existing southern boundary wall to Tower Green is preceded by detailed recording to inform archival information on the original demesne of Clareville. A report detailing same, and any findings shall be submitted to the planning authority for record.

Reason: To ensure an appropriate standard of development/conservation.

11. Not more than 50% 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 planning authority that a childcare facility is not needed at this time.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

12. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sufficient planting depths in the raised planters shall be agreed with the planning authority for all podium and roof level planting. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that

die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

13. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an Arboricultural consultant, for the entire period of construction activity. The developer shall inform the Planning Authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a weekly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the submitted Arboricultural Report and accompanying documents. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

14. The mitigation measures outlined in the Ecology Impact Assessment and Invasive Species Management Plans submitted with this application shall be carried out in full, except where otherwise required by conditions of this permission.

Reason: To protect the environment and in the interest of wildlife protection.

15. Prior to commencement of development the applicant shall submit to the planning authority for its written agreement:
- (a) A bat conservation report to include an assessment of the suitability as a bat roost of any tree it is proposed to fell on the development site, and a methodology and schedule for the removal of such trees under the supervision of a bat expert licensed to handle bats; the removal of any tree identified as a bat roost only to be carried out on receipt from the NPWS of a licence to derogate from the Habitats Directive and destroy the roost.
 - (b) A lighting scheme for the proposed development 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.
 - (c) A badger conservation plan, to include a survey identifying the extent of any burrow system/s/sett located on site. Where sett/s are identified this survey should also include a methodology for the preservation of the burrow system/s during the construction of the proposed development, if necessary providing for the temporary exclusion of the burrow/s, as well as modification to the landscaping proposals for the site in the vicinity of the burrow system including, as necessary, the diversion of paths and the fire access road so as to preserve the possibility of the use of these burrows by badgers in the long term. Where the preservation of all or part of an active burrow system on site is not possible, the developer shall provide details of mitigation measures including where deemed necessary details of replacement artificial setts. Construction activities within the vicinity of active setts may only commence once these setts have been evacuated and destroyed under licence from the NPWS. Where affected setts do not require destruction, construction works may commence once recommended alternative mitigation measures to address any identified badger issues have been complied with.

Reason: To protect the environment and in the interest of wildlife protection.

16. Prior to commencement of the development, details of all areas of boundary treatment, play equipment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of communal open space

shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

17. In the interest of residential and visual amenity a schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years, and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

18. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments.

Reason: In the interests of amenity and public safety.

19. 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:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably qualified archaeologist who monitor all site investigations and other excavation works,

(c) should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht to how it is to be dealt with,

(d) all archaeological deposits/features, within the area where groundworks will occur, which were recorded during previous test excavations, shall be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained,

(e) all costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

20. 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.

Reason: In the interests of visual and residential amenity

21. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for 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, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

22. The internal road network serving the proposed development, including set down areas, footpaths and kerbs and the underground car park and ramps to same shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.

Details of signage in relation to cycle parking and safe access to same should also be submitted for agreement with the planning authority prior to commencement of development.

In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

23. Prior to the opening/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/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. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

24. The construction of the development shall be managed in accordance with a Construction Management Plan and Environmental Management Construction Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures, traffic management arrangements/measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

25. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan and construction environmental 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.

Reason: In the interest of sustainable waste management.

26. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement:

- (a) A Stage 2 - Detailed Design Stage Storm Water Audit.
- (b) An updated SSFRA which adequately addresses the risk due to overland flow and also comments on the proposed surface water drainage system in the event of blockage or partial blockage and any surcharging or flood risk that may be identified.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

27. Prior to the commencement of development, the developer shall enter into water and waste-water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

28. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity

29. 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 communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity

30. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

31. 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 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.

Reason: To secure the protection of the trees on the site.

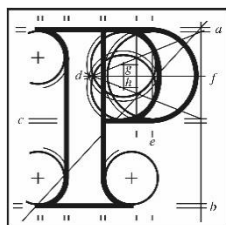
32. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Máire Daly
Planning Inspector

26th November 2021

ABP-311190-21 Appendix 1: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-311190-21
Development Summary		Demolition of existing buildings on site and construction of 244 no. Build to Rent apartments and associated site works.
	Yes / No / N/A	-
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report, AA Screening Report and NIS were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA and SFRA undertaken in respect of the Dun Laoghaire Rathdown County Development Plan 2016-2022.</p> <p>Refer to documents listed in section 12.7 of the Inspector's Report.</p>
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<p>B. EXAMINATION</p>	<p>Yes/ No/ Uncertain</p>	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the construction of residential units and mixed uses on zoned lands. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposal includes for the demolition of three buildings on site and the construction of a residential development (apartments) which is not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>

<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>

<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection to any watercourse in the area or to Dublin Bay. The operational development will connect to mains services. Surface water drainage will be separate to foul services.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>

<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an increased population at this location. However this is not regarded as significant given the urban location of the site and surrounding pattern of land uses. No social environmental impacts anticipated.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone development, comprising the redevelopment of a site and is not part of a wider large scale change. There are no permitted / proposed development on immediately adjacent lands. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 	<p>No</p>	<p>No European sites located on the site. See Section 13 of the attached inspectors report which contains an AA Screening report which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives.</p>	<p>No</p>

5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan			
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No	No – the site was examined with regard to the potential for roosting or foraging of SCIs as part of the AA Screening (Section 13 of Inspectors Report refers) and no species were identified as being significantly affected. An Ecological Impact Assessment was also carried out for the proposed development, and subject to mitigation measures no significant impacts are expected.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	There are no Architectural Conservation Areas or Protected structures or other features of landscape, historic, archaeological or cultural importance on site.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	The site is not traversed by any watercourses or drains and there are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The site is not adjacent to any watercourse and is not at risk of flooding.	No

<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion and the topography of the area is flat.</p> <p>Ground works will be subject to best practice.</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network . There are sustainable transport options available to future residents. A Traffic and Transport Assessment has been carried out on the proposed development and did not identify any significant impacts. No significant contribution to such congestion is anticipated</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>The application site is located directly adjacent to Blackrock College. It is considered that the submitted Masterplan satisfactorily addresses the proposed development in the context of the future development of the school, such that the development will have no adverse impact on the current operation of the school and will allow adequate space on the remaining school grounds to enable the projected expansion of the school population. The site is located directly opposite from St. Philip and St. James' Church and within close proximity of two other schools and the Barrett Chesire Care Home though it is not considered that the proposal will have any significant impacts on same.</p> <p>There are no other existing sensitive land uses or substantial community uses which could be affected by the project.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION

No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	EIAR Not Required.
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands zoned Objective A 'To protect and-or improve residential amenity' and with a specific local objective 'to protect and/or provide for Institutional Use in open lands' in the Dun Laoghaire Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- c) The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.

- d) The existing use on the site and pattern of development in surrounding area;
- e) The planning history relating to the site
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the including measures identified in the Natura Impact Statement, Outline Construction Environmental Management Plan, Outline Construction and Demolition Waste Management Plan, Outline Construction Management Plan and Operational Waste & Recycling Management Plan, Ecological Impact Assessment, Site Specific Flood Risk Assessment, Arboricultural Report, Archaeological Assessment and Architectural Heritage Impact Assessment.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _____ **Máire Daly**

Date: 19th November 2021