



An
Bord
Pleanála

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

Inspector's Report ABP-311329-21

Strategic Housing Development

299 no. apartments / duplexes, creche and associated site works.

Location

Lands adjoining Clonkeen College,
Clonkeen Road, Blackrock, Co.
Dublin. (www.clonkeenshd.com)

Planning Authority

Dun Laoghaire Rathdown County
Council

Applicant

Clonkeen Investments DAC

Prescribed Bodies

Department of Education and Skills
Irish Water
Dun Laoghaire Rathdown Childcare
Committee

Observer(s)

- 1) Adam Roche and Ciara Millar
Roche
- 2) Aisling Tuite
- 3) Ann Lehane
- 4) Anne Gormley
- 5) Anne McCarthy
- 6) Anne-Marie Keady
- 7) Arthur Choyce
- 8) Barbara Scully
- 9) Barry O'Shaughnessy
- 10) Cabinteely GAA Club
- 11) Brenda Richardson
- 12) Brian Gallagher
- 13) Brian Grant
- 14) Carmen Bernal
- 15) Chanel Grant
- 16) Claire Maher
- 17) Claudie Driesen
- 18) Colin Riordan
- 19) Colm Dolan
- 20) Connie Ross
- 21) Conor Lehane
- 22) Conor Murphy
- 23) Conor Richardson
- 24) Daniel O Farrell
- 25) David Cunningham
- 26) David Toft
- 27) Deirdre Curley
- 28) Deirdre Fitzgerald
- 29) Deirdre MacEvilly

- 30)Des North
- 31)Donal Deegan
- 32)Eibhin Crowe
- 33)Elizabeth Hurley
- 34)Eoghan Stafford
- 35)Esther Corrigan
- 36)Feargal Clifford
- 37)Fiona McEvaddy
- 38)Fiona McGuckin
- 39)Geraldines P Moran GAA
Club
- 40)Grainne Springael
- 41)Harry Crowe
- 42)Helen Toner
- 43)James Hedderman
- 44)Jennifer Thompson and
Terence Kelly
- 45)Jim Harding
- 46)Jimmy and Rita O'Sullivan
- 47)Joan Deegan
- 48)John Kerr
- 49)John Toomey
- 50)Karl Kinch
- 51)Karl O'Sullivan
- 52)Kevin Polley
- 53)Laura Healy
- 54)Liam Dodd
- 55)Liam English
- 56)Liam Farrelly
- 57)Lynda Duggan

- 58) Artowell Limited
- 59) Martha Vard
- 60) Martina Malone
- 61) Mary O'Keeffe
- 62) Mary O'Brien
- 63) Mary Toft
- 64) Maura Reynolds
- 65) Michael Brennan
- 66) Monaloe Residents
Association and Long
Meadow Residents
- 67) Niall Mullally
- 68) Noel Dillon
- 69) Noel Murphy
- 70) Noreen Brady
- 71) Orla Ryan
- 72) Paddy Derivan
- 73) Patrick Farrelly
- 74) Paul and Catherine Murphy
- 75) Peadar McGiny
- 76) Richard Boyd Barrett and
Melissa Halpin
- 77) Rita Byrne
- 78) Rita McAlinden
- 79) Robbie Byrne
- 80) Roderick Aherne
- 81) Ronnie Hay
- 82) Shane and Ruth Hosey
- 83) Ryan Coble
- 84) Sandra Polley

85) Sarah and Aran O'Loughlin

86) Sarah Dolan

87) Simon Wilson Moore

88) Sinead O'Neill

89) Stephanie Cahill

90) Suzanne Holmes

91) Thomas Brophy

92) Valerie McDermott

Date of Site Inspection

3rd December 2021

Inspector

Rachel Gleave O'Connor

Contents

1.0 Introduction	7
2.0 Site Location and Description	7
3.0 Proposed Strategic Housing Development	7
4.0 Planning History.....	10
5.0 Section 5 Pre Application Consultation	12
6.0 Relevant Planning Policy	14
7.0 Statement of Consistency	17
8.0 Third Party Submissions	18
9.0 Planning Authority Submission	31
10.0 Prescribed Bodies	43
11.0 Oral Hearing Request	47
12.0 Assessment.....	47
13.0 Appropriate Assessment	102
14.0 Screening for Environmental Impact Assessment.....	121
15.0 Conclusion	126
16.0 Recommended Order.....	128
17.0 Reasons and Considerations	129
18.0 Conditions	134
19.0 Appendix A: EIA Screening Table	143

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site is located approx. 900m south of Deansgrange village and approx. 350 north of the N11 junction with Clonkeen Road. The surrounding area is suburban in nature and is characterised by single and 2-storey dwellings. To the north the site is bound by Clonkeen College and associated playing pitches. To the south, east and west the site is bound by single and 2-storey housing. There is also a garage located to the west of the subject site with frontage onto Clonkeen Road.
- 2.2. The site is irregular in shape and has a stated area of 3.3ha. It currently accommodates a 470sqm 2-storey office building known as St. Helen's which fronts onto Meadow Vale and former playing pitches associated with Clonkeen College. Access to the site is available from Meadow Vale. There is an existing watercourse along the sites southern boundary which runs in a west to east direction.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development comprises the following:
- A total of 299 no. residential units and 1 no. 353sqm childcare facility with dedicated play area of 231sqm.
 - Including 60 no. duplex units arranged in 6 no. three storey blocks (formed of 18x ground floor 3 no. bedroom, with 18x upper 2 no. bedroom; and 12x ground floor 2 no. bedroom, with 12x upper 3 no. bedroom units).
 - Including 239 no. apartment units (formed of 111x 1 no. bedroom, 120x 2 no. bedroom and 8x 3 no. bedroom apartments).
 - Apartment blocks are arranged in 4 no. 6 storey blocks over 1 no. storey basement.

- Public open space, communal open space and private open space (including all balconies, terraces and individual unit gardens at all levels).
- 641sqm communal residents' facilities including concierge and welcome area (195sqm), residents' flexible work facility (219sqm), residents' lounge (100sqm) and residents' gym area (100sqm).
- The development will also provide for the demolition of 2 no. storey office building (St Helen's, Meadow Vale – 470sqm) to facilitate new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale.
- The development will also include the provision of 2 no. dedicated play areas; internal roads and pathways; and bin stores.
- 248 no. car parking spaces, including 167 no. at basement level and 2 no. shared vehicle (GoCar) spaces, 388 no. bicycle parking spaces, and 10 no. motorcycle parking spaces at basement and surface level.
- Hard and soft landscaping; plant; boundary treatments including the repair and replacement of some existing boundary treatments.
- The provision of new surface water and foul drainage pipes and any required pipe diversion works or build over works; and internal foul pumping station.
- A new internal access road and paths; changes in level; services provision and related pipework, ducting and cabling; electric vehicle charging points; 4 no. stormwater attenuation tanks; 1 no. ESB substation; photovoltaic panels; SUDS including green roof provision; and signage.
- Provision for future pedestrian access to Monaloe Park to the east of the development, including the provision of a pedestrian bridge, extending over the drainage ditch.
- Public lighting and all site development and excavation works above and below ground.

3.2. Key Figures

Site Area	3.3ha
------------------	-------

No. of units	299 (239 apartments and 60 duplexes)
Density	90 units per hectare
Plot Ratio	1.02
Site Coverage	26.10%
Height	3 to 6 storeys
Dual Aspect	50.8%
Open Space	21.14% of overall site area (formed of 7,012sqm public open space) In addition, 3,663sqm communal open space.
Part V	30 units (10%), exact details to be agreed with County Council Housing Department.
Vehicular Access	As existing, Meadow Vale.
Car Parking	248 no. in total (including, 167 no. internal spaces for residents of which 7 no. are disabled-accessible and 20 no. are EV; 69 no. external surface level spaces for residents of which 5no. are disabled-accessible, 10 no. are EV, and 2 no. are for shared vehicles; 8 no. external surface spaces for visitors of which 2no. are disabled-accessible and 2no. are EV; 4 no. external surface spaces to serve the crèche) In addition, 10 no. motorcycle spaces.
Bicycle Parking	388 no. in total
Creche	353sqm

Housing Type	1 bed	2 bed	3 bed	Total
No. of Apartments	111	120	8	239
No. of Duplexes	-	30	30	60
Total (%)	111 (37.1%)	150 (50.1%)	38 (12.7%)	299 (100%)

4.0 Planning History

4.1. There are various historical applications relating to alterations to the existing school which are not of relevance to the current application.

4.2. Relevant planning history:

- D08A/0042: Planning permission REFUSED for the demolition of an existing two storey building 'St Helen's', in office use of 482sqm and a single storey garage of 43sqm and the construction of a new residential development consisting of 49 apartments and associated landscaping works; the apartments were to be in two, four storey apartment buildings (3 storeys plus a set back penthouse level) over basement; block A nearest to Meadow Vale to contain 21 apartments and block B to contain 28 apartments. The basement was to contain 64 car spaces, 49 bicycle spaces, bin stores, services and utilities rooms. Pedestrian and vehicular access to be from existing gate location on Meadow Vale via newly designed entrance gates. A second gated entrance for emergency vehicular access only is to be provided from Meadow Vale adjacent to the north-eastern boundary wall. There were 3 no. reasons for refusal:
 - 1) Having regard to the design, scale, bulk and layout of the proposed development, it is considered that the proposal would constitute the overdevelopment of this site, would have significant overlooking

implications for adjacent properties and would be visually overbearing and out of character at this location. The proposal would therefore seriously injure the amenities or depreciate the value of property in the vicinity and would contravene Section 5.5.4 of the current County Development Plan, which indicates that apartment developments should show a high quality of building design and have due regard to the character and amenities of the surrounding landscape. The proposal would also contravene the zoning objectives for this location of protecting and improving residential amenities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 2) Having regard to the location of the open space / amenity area provision immediately to the north west of block B, it is considered that this amenity space would be seriously overshadowed and would not afford adequate useful open space. The Planning Authority therefore considers that the proposal as presented is substandard in terms of acceptable amenity area provision and is not consistent with guidance contained in Section 4.2 of Sustainable Urban Housing, Design Standards for New Apartments, DoEHLG September 2007. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- 3) Having regard to the substantial number of single aspect north west facing apartments contained within the proposed development, it is not considered that the proposals as presented would afford an acceptable level of residential amenity for future residents and would not comply with Section 5.5 of the DoEHLG Guidelines: Sustainable Urban Housing: Design Standards for Apartments or with Section 5.5.4 of the current County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of this area.

4.3. Surrounding Sites:

- ABP-302109-18, Reg. Ref. D18A/0398: Permission was granted in 2018 for the demolition of 2 no. derelict dwellings and the construction of 53 no. apartments in a 4-storey over basement building at Johnstown Court c. 750m northeast of the subject site.

- Strategic Housing Development Application ABP-304823-19: Permission was granted in 2019 for the demolition of 3 no. houses and the construction of 210 no. apartments and a creche in 3 no. blocks ranging in height from 3 – 7 storeys at Churchview Road and Church Road c. 1km east of the subject site.

5.0 Section 5 Pre Application Consultation

- 5.1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 11th March 2021 in respect of a proposed development of 389 no. residential units.
- 5.2. Copies of the record of the meeting and the inspector's report are on this file. In the Notice of Pre-Application Consultation Opinion dated 6th April 2021 ABP Ref. ABP-309039-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. It was noted that further consideration/amendment or justification of the following: the proposed height, massing and form of Blocks A1-A4 having regard to the residential amenities of houses Meadow Vale, Monaloe Park Road, Monaloe Crescent, Clonkeen Lawns and Clonkeen Road; the proximity of Blocks B1-B4 to the site's boundary with the rear gardens of dwellings on Meadow Vale and associated amenity impacts; and the location of public open space with regard to passive surveillance / overlooking of spaces. Specific information was also requested.

5.3. Applicant's Statement

- 5.4. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

- Opinion item 1: Design rationale provided in the Architects Design Statement. A number of design amendments have been made to the scheme to prevent undue overshadowing or other negative amenity impact. Boundary treatments also softened.

- Opinion item 2: Design rationale provided in the Arctictis Design Statement. Design amendments include a minimum distance of 11m to the boundary in specific locations and balconies relocated to the front of blocks to avoid undue overlooking.
- Opinion item 3: Landscape Design Report provides a detailed response to this item. Amendments to the proposal including the relocation of the primary open space from the south eastern site area to the more central location and merging it with the former village green area, overlooking by Block B4 and indirectly by Block A, 2, 3 and 4.

Specific Information

- 1) A design rationale report is provided.
- 2) A School Demand Analysis Report is submitted with the application and should be read in conjunction with the GVA Planning Report (Policy Response Report).
- 3) The Landscape Design Statement address the rationale for connectivity and permeability within and through the site.
- 4) A Housing Mix Report is included with the application.
- 5) A Building Life Cycle Report is submitted with the application.
- 6) A Phasing Plan is included with the application and details provision of public open space areas
- 7) Phasing Plan is included with the application and details provision of Part V units.
- 8) A Social Infrastructure and Audit is submitted with the application that addresses childcare demand.
- 9) A plan indicating public semi-private and private spaces is included in the application, alongside a Boundary Treatment Plan.
- 10) A report outlining a response to the items raised by Irish Water and DLRCC Drainage Planning is enclosed with the application as part of the Engineering Services Report.
- 11) A Material Contravention Statement is included with the application.

12) An EIAR Screening Statement is submitted with the application.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities.

6.1.2. 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 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities (2001).

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

6.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

6.2.2. The site is located with the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to consolidate the development of Dublin city and suburbs. Of particular relevance is RPO 5.5.

6.2.3. RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. Local Planning Policy

- 6.3.1. Dun Laoghaire Rathdown Development Plan 2016 – 2022
- 6.3.2. The subject site is zoning ‘Objective A’ with the associated land use objective ‘*to protect and-or improve residential amenity*’. 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.
- 6.3.3. Section 1.2.5 of the Plan states ‘in addition to the major parcels of zoned development land above, the ongoing incremental infill and densification of the existing urban area will generate, overtime and on a cumulative basis, relatively significant house numbers’.
- 6.3.4. Policy RES5: Institutional Lands states that where distinct parcels of lands are in institutional use (such as education, residential or other such uses)s 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.
- 6.3.5. Standards with respect to development in Intuitional lands are described in section 8.2.3.4(xi) of the Development Plan and with respect to open space in Institutional Lands in section 8.2.8.2.
- 6.3.6. Policy OSR11: Protection of Sports Grounds / Facilities states that it is Council policy to ensure that adequate playing fields for formal active recreation are provided for in new development areas and that existing sports facilities and grounds within the established urban area are protected, retained and enhanced.
- 6.3.7. Policy SIC8 states that it is Council policy to ensure the reservation of primary and post primary school sites in accordance with the requirements of the relevant education authorities and to support the provision of school facilities and the development / redeveloped of existing schools throughout the Country.
- 6.3.8. Section 8.2.12.4 School Development, describes standards with respect to new school development and extension to schools.
- 6.3.9. Section 4.1.1.2 states the Councils obligations in relation to Appropriate Assessment and the determination of significant effects on the integrity of Natura 2000 sites.

- 6.3.10. Policy LHB20 Habitats Directive states that it is Council policy to ensure protection of natural heritage and biodiversity, including European sites that form part of the Natura 2000 network.
- 6.3.11. Policy UD6: Building Height Strategy: - 'It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County'.
- 6.3.12. Chapter 2: Sustainable Communities, Chapter 5: Physical Infrastructure, Chapter 8: Principles of Development and Appendix 9: Building Height Strategy, Policy RES3: Residential Density, RES7: Overall Housing Mix, Policy RES8: Social Housing, Policy SIC11: Childcare Facilities, Policy UD1: Urban Design Principles, Policy UD2: Design Statements, Policy UD3: Public Realm Design and Section 8.2.3: Residential Development are also considered relevant.

7.0 Statement of Consistency

- 7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines and the Development Plan and I have had regard to same. A Material Contravention Statement also accompanies the application with respect to the following:
- 1) The proposed development has a maximum height of 6 storeys, which is in excess of recommendations outlined in Appendix 9 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) 'Building Height' that gives a maximum height for residual suburban areas not identified in section 4.7 of 3 to 4 storeys.
 - 2) Section 8.2.4.5 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) prescribes a minimum standard for the quantum of car parking spaces to be provided, and the proposed development includes less spaces than prescribed under this standard.
 - 3) Section 16.3.3 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) prescribes a minimum standard for dual aspect apartments at 70%. The proposed development has 50.8% dual aspect units.

- 4) Dún Laoghaire-Rathdown Development Plan (2016-2022) states that densities should be 35 uph. Density for development of institutional lands should be an average of 35-50 uph. The proposed development has a density of 90 uph.
- 5) The previous Development Plan (2010-2016) included a formal 'INST' objective at the subject lands. This has been removed under the current Development Plan (2016-2022), nevertheless the previous active use of the lands was institutional in nature and the policies and objectives in relation to institutional lands are considered as a result. The site is currently vacant and not accessible to the general public. The Development Plan states that the Council will endeavour to reserve the use of institutional lands for other institutional uses. Density is specified at 35-550 uph and the proposal is 90 uph, in addition open space provision of 25% could apply for institutional lands, and the development includes 21.14%. Consideration of future provision or expansion of school use is also required.

8.0 Third Party Submissions

8.1. 92 no. responses were received from third parties in relation to the application and the main matters raised are summarised below:

8.2. General, nature, principal of the development

- This Development contravenes the upcoming Strategic Neighbourhood Infrastructure Zoning Objective from DLRCOCO. The Draft Development Plan 2022 - 2028 changes zoning to Objective SNI, which is "to protect, improve and encourage the provision of sustainable neighbourhood infrastructure". The Planning Regulator has also made a submission that Dun Laoghaire Rathdown County Council are planning to permit too many homes in its functional area.
- The site is not a brownfield site. Incorrect to describe it as unavailable for public use. Continually in use by school, sports clubs and wildlife. Described as greenfield site in submitted traffic assessment. Described as forming part of the grounds of Clonkeen College throughout the application.

- Housing need is being met in the area, particularly by Cherrywood. Use of 2016 census data is out of date for the area as many developments complete since then.
- Application invalid as other lands owned by the Christian Brothers not shown in blue, preventing the Board from attaching conditions to the college lands. Ownership of site unclear as former statements from the Christian Brothers state that it has been sold.
- No evidence that the rezoning from INST to Residential in the 2016-2022 Plan was subject to a vote or how the decision was made.

8.3. Infrastructure

- The school report has no evidence of liaison with schools so unrealistic. Does not include demographic data for the school catchment area, suggests a decrease in enrolment for primary schools and does not address how the school will cater for increased demand for places in the area. Report is out of date (2018) and includes reference to girls only schools, while Clonkeen College is for boys. Includes arbitrary catchment area. Does not reference future need of the school.
- Application incorrectly includes Nord Anglia and Lycee Francais as third level institutions but they cater for 5-18 yrs.
- Disparities between the childcare demand reports submitted for this application and for the St Laurence SHD application in nearby location.
- Social infrastructure audit does not mention policy OSR11.
- The secondary school list includes 3 private fee paying schools.
- Loss of sports pitches which are a vital community resource. Strain on sports facilities in the area due to growth in popularity, specifically by girls.
- Strain on educational facilities. The proposal will prevent expansion of the school to cater for additional demand.
- Strain on bus services that are already overcapacity.
- Strain on facilities will lead to more travel required to access facilities with resulting increase in pollution.

- Sewage pipes on the area are already at capacity with regular issues.
- Shortage of special needs education in the area.
- List of sports facilities provided does not include consideration of their requirements.
- Query if Irish Water can cope with the proposed units. Letter included in engineering services report does not indicate capacity available and connection feasible, application therefore invalid. The Board cannot determine the application without knowing water supply arrangements.
- Material contravention of policy SIC8 in relation to provision of school facilities.
- Works required to facilitate water connection, to be carried out by Irish Water, amounts to project splitting rendering the EIA Screening, AA and Water Framework Directive assessment unsound, particularly due to proximity to petrol station with underground fuel storage tanks and possible existing soil contamination.

8.4. Transport

- Impact on children's and elderly people's safety from increased traffic.
- Traffic survey is unrealistic representation of congestion in the area during school hours.
- School was originally built with 5 access, which have been reduced to two, and this application would reduce it to one.
- Meadow Vale estate is used by driving test instructors.
- Shortfall of parking in Meadowvale leading to kerb side parking and traffic hazards. Difficulties for emergency vehicles to access the streets.
- Insufficient parking proposed will lead to increased on street parking in the area.
- Road Safety Audit inadequate and doesn't follow TII guidance. Staff and pupils not mentioned. Does not consider impact on cyclists, particularly students cycling to the school.

- Vehicular entrance should be moved from the location adjoining a busy school.
- Additional strain on Meadow Vale and Monaloe in terms of increased traffic.
- Proximity to sports facilities leads to congestion at the weekends.
- Provision of access link via Monaloe Park Road will increase traffic and parking associated with school drop off and cause problems at the access road at the junction with Clonkeen Road, which is already strained.
- Little information provided on current capacity of the surrounding public transport network in the submission and overreliance on busconnects that does not yet have consent.
- Proposed parking ratio of 0.82 is a material contravention of the plan.
- Lack of dedicated cycle infrastructure in the area.
- Material contravention of section 3.32 of the apartment guidelines with respect to storage for cycle parking.
- Query official line on overflow parking after completion and what happens in relation to parking if units are subsequently bought privately.
- Analysis fails to consider cumulative impact of 13,000+ units already under construction and planned in the area.
- Insufficient consideration of cars associated with the proposed creche and cycle spaces that would be required. No provision for trailer / cargo bikes associated with creche.

8.5. Amenity

- Overbearing, overlooking and overshadowing of properties in Meadow Vale, Monaloe Park Road and other adjoining properties.
- Proposed corner balconies will cause negative impact.
- Intrusive to sunlight and daylight to rear of adjacent properties.
- Loss of sport facilities detrimental to the health and personal development of students and community that rely on them.

- Impact on the functioning of the school. The school will be left with outdoor space that doesn't conform with Department of Education standards.
- Application does not meet the objectives in the Development Plan to support recreational amenities and promote public health objectives.
- Increase in noise and disturbance levels, impacting upon privacy. Noise impact assessment does not consider noise from traffic, balconies or roof terrace areas. Noise, air and light pollution.
- Question the legitimacy of the Board or developers to deliberately and negatively impact upon the special needs unit and services it supports.
- Impact on children's safety from transient nature of rented apartments in a settled neighbourhood.
- The erection of a fence has already prevented the students in the school from partaking in a full PE programme as required under the curriculum.
- Block A1 overlooks the playing field and invades the privacy of that teaching environment.
- Outside area allocated to the school includes concrete yard and greenhouse structure that is not referenced in the submission.
- Scant regard for physical and mental wellbeing of children when authorities estimate that 20% of the youth population is suffering from obesity.
- Bin storage up against the boundary walls of Meadow Vale and Monaloe will lead to vermin issues.
- Requirement for 25% open space (institutional lands) does not apply to the school (as suggested by the applicant) but to the site itself.
- Low height of rear garden walls for some of the houses on Meadow Vale. Safety / security concerns and potential for anti-social behaviour.
- Disruption whilst schools doing exams.
- Loss of recreational amenity.

- Query if ABP and officials will take responsibility for resultant destruction and damage to properties, or any injury or death, should the development go ahead.
- Loss of full GAA pitch for the school and local sport community.
- Design creates a significant breach of privacy for the students as it will not be possible to ascertain if residents of the units pose a risk to the safety of students.
- Sunlight and Overshadowing report is not accurate as no photo evidence during certain times of years. Drawings are ambiguous and difficult to read.
- Overshadowing diagrams show gardens for Meadow Vale completely overshadowed.
- Drawings suggest that tree planting will prevent line of sight from duplexes to existing houses, which is not an accurate reflection of reality.
- Position of wood pellet chimney at 114 Meadow Vale would be enclosed by the development and be compromised, with particular matter from the flue enclosed. Not suitable for proximity to windows, play area, bike sheds and bin storage.
- Very little reference in submission to impact on no.6 Clonkeen Lawn. North elevation of house from Clonkeen Road is shown incorrectly.
- Impact of block B6 upon properties in Clonkeen Lawn.
- No assessment of wind, which will lead to damage of properties.
- No assessment of impact of walkway to Texaco/Centra upon existing properties. New trees shown with canopies intruding into properties. Security and noise concerns.
- Not all properties chosen for analysis in Daylight and Sunlight report. Before and after effect of overshadowing on existing properties has not been done, no site shadow survey of Clonkeen Lawn. Shadow effect of new trees not discussed or assessed.
- Pre-app requested that B6 not overlook properties to the west and this has not been demonstrated.

- B6 only 5m from back boundary to Clonkeen Lawn. Window to window distance of 12m in contravention of planning standards.

8.6. Design, height, density

- Material contravention of the Development Plan in terms of height.
- Proposed development is out of scale with the existing character of the area.
- Ground level of properties Monaloe Park approximately 2m below the ground level of the proposed development, exacerbating the impact of the height. No site section drawing showing this.
- Number of units should be reduced by condition and height reduced to 2 and 3-4 storey.
- Visual impact assessment does not model likely impact from rear of Monaloe Park Road or Meadow Vale.
- Visual impact assessment taken from a position as close as possible to the school to diminish effect. No views taken from the amenity space. Visual impact on this amenity space in material contravention to the zoning objective.
- Site is inadequately accessible to high frequency public transport in relation to justification for height and density. Applicant has not based assessment on walking distance.
- Public and communal open space proposed is inadequate and of poor quality. Overestimate of quantum through the inclusion of inappropriate areas.
- Over dominant in the surrounding area in terms of form, height and design. Material contravention of the zoning in this regard.
- Drawings illustrate a rugby pitch for the school which was not what was agreed in the 2019 court hearing, it should be a full sized GAA pitch. There are also no high nets or flood lights shown.
- The development does not satisfy the upward modifiers in the plan contrary to the applicants submission.
- The proposed density is not in line with planning for the area.
- Excessive height, scale and proximity affecting Meadow Vale and Monaloe.

- Visually intrusive and incongruous design.
- Doesn't satisfy criteria for SPPR 3 of the building height guidelines.
- Density in excess of the capability of the local road / transport network.
- Out of character with the established pattern of density and layout in the area and represents over development.
- Blocks B1, B2 and B3 would form a long dull curtain and the east elevation shows the design features follow a repetitious pattern.
- Section 05 has a dog-leg alignment, therefore not illustrating direct impact observed by residents concerned.
- Blocks A1, A2, A3 and A4 are monolithic.
- Lower standard of housing than existing housing that adjoins, lowering the standard of the place.

8.7. Construction

- Excessive hours proposed for construction works (7-7 mon-fri and 8-2 sat) leading to impact on quality of life, excessive noise in a quiet area and rodent issues. Disruption to the school and younger children living in the area. Disruption to people working from home.
- Traffic and parking concerns during construction.
- Air pollution, including dust.
- No assessment of construction noise carried out.
- Cumulative construction impact.

8.8. Natural environment

- Destruction of animal and insect habitat. Curlew, soprano pipistrelle and Leisler's bats.
- Brent Geese feed and rest on the playing pitches in large numbers.
- Submitted construction environmental management plan is non-specific and generic. Water and sediment management during construction is not provided

in any detail and the efficacy of measures cannot be evaluated in the EclA or NIS.

- It is only in recent times since the developer has let the grass grow to discourage the geese landing at Clonkeen, that the Geese have been landing at Kilbogget Park.
- In 2019, over 600 Light Bellied Brent Geese were feeding and resting on the pitches, making the site one of national importance.
- The application reference the Development of the school pitch which is not referred to in any Ecology Impact Assessment.
- Disturbance of vermin such as rates, mice etc, during and after construction.
- Wildlife observed include Kingfishers, herons, egrits, curlews, ducks, foxes, buzzard, egrets, black-tailed godwit, serval species of gull and bats.
- Proposal will replace grass pitch with all weather synthetic one that will displace geese from the area.
- Alternative parkland areas for the Geese are not a suitable alternative as there is more disturbance and dogs.
- Loss of natural pitch and conversion to all weather surface requires EIA and the proposal is project splitting.
- Cumulative loss of habitat like this in the Dún Laoghaire-Rathdown area.
- The site forms the high tide roost and feeding area for protected birds from Dublin Bay.
- Adverse impact on bats due to lighting, removal of habitat and connectivity and foraging habitat, contrary to statutory wildlife protection measures and obligations that Ireland has to the Bern Convention.
- Unclear if bat survey included land to the north of the site, impacting the AA. Survey methods not adequately described. Timing and number of surveys not in line with best practice. No mention of daytime inspection and suitability of trees or buildings for bats. No mention of 2011 European Communities (Birds and Natural Habitats) Regulations which supersede Regulation 23 of the Habitats Regulations 1997.

- The submitted ecological impact assessment and NIS do not refer to the phasing of the development and no mention of the watermain connection works and demolition works.
- Mitigation measures in the EclA are non-specific and do not address disturbance and possible displacement of foraging wintering birds or loss of roosting habitat for bats during demolition. Mitigation in the NIS is generic, project impacts in its entirety are not described. AA cannot be carried out with required scientific certainty.
- No information on location of SUDS or attenuation features in EclA, so impossible to adequately address potential impacts on ecology and receiving environment.

8.9. Flooding

- There would be flooding risk to the rear gardens in Meadow Vale with the removal of existing drainage that was installed by the school on the playing fields.
- The level of the river may increase resulting in flooding in the area.
- Stream running to the rear of Monaloe Park (more than drainage ditch referred to by applicant) where there has been flooding in the past. It is not maintained, the development will increase surface water run off to this stream and result in flooding.
- With the volume of groundworks and concrete to be poured, it will impact the natural dispersion of runoff bringing flood risk.
- Main surface water manhole carrying surface water from Clonkeen Road to outfall at Monaloe not shown correctly on drawings.
- An EIAR should be submitted in light of flood risk. Area is Zoned A in the Councils Climate Action Plan.

8.10. Mix

- Mainly 1 and 2 bed apartments which will have transitory renters doing little to promote community objectives in the area.
- Won't help the current housing crises as Build-to-Rent.

- The development won't produce the suggested Part V units.

8.11. Other

- Pupils have to leave school site during school hours as they no longer have access to the grounds. Leads to gathering in the area and litter.
- All weather facility previously refused under ref. D11A/0016 so shouldn't be promised under this application.
- Obtaining permission for new all-weather pitch will be problematic due to locations of sewer and proximity to neighbouring boundaries.
- The Office of the Planning Regulator (OPR) have already stated that DLRCOCO county development plan already has too many homes being built to be sustainable for traffic links and other infrastructure. OPR say 15,000 homes should be built between 2021 to 2028 to be sustainable and that DLRCOCO county development plan is over subscribed by 6,800. Please note that the Cherrywood Development will deliver over 14,000 units over that period.
- Inadequate EIA Screening in relation to cumulative impact. Reference should also be had to Waltham Abbey judgement in relation to matters to be considered. Based on obsolete 2003 guidelines. Does not provide schedule 7A information. None of the information in the 299B report can be linked to the EIA screening report.
- Loss of the full GAA and extended pitch area blocks an income stream for the school.
- Application omits reference to the following previous applications on the site, D10A/0689 and Exemption reference 3110. Application D10A/0689 contains records of flooding on the site, therefore the applicants suggestion that there has been no historical flooding on the site is wrong. Applicant has not answered Q.18 of application form correctly.
- Material contravention statement not in compliance with s8(1)(a)(iv)(II). Misinterpretation of upward modifiers and s28 height criteria. Confusing with respect to institutional lands. Policy RES5 makes clear it is the nature of the use

itself and not the zoning. Position on density unclear and apartment guidelines have no bearing on density. Approval of one other development is not a pattern.

- Material contravention of DMURS in relation to long cul de sac road access and lack of pedestrian / cycle permeability and connectivity, and material contravention of policies ST5, ST4 and sections 8.2.3.1, 8.2.3.5(i) of development plan.
- Material contravention of ST3 and apartment guidelines for cycle storage.
- A housing application that forms an SHD application does not automatically infer a specific development is of national importance that warrants a grant of permission even when it would materially contravene the relevant development plan or Local Area Plan. The Plan making hierarchy is in place to ensure that policy at a local level adheres to policy and strategies at each of the other levels.
- Loss of playing pitch has led to Clonkeen depending on the use of playing pitches from local sports clubs, with students having to walk along busy road which is dangerous.
- Negative impact on sale value of existing properties.
- SHD process is flawed and bias towards developers.
- Request more accurate visual representation and confirmation of commitment to provide sporting facility. This should be delivered prior to the housing.
- Pitch is also used by local clubs and students from geography, science and SPHE classes. Adverse impact on delivery of the wellbeing curriculum and art classes.
- Proposal is in direct opposition to DLRCC's Climate Action Plan.
- These lands were previously integrated into the school grounds, the school spent circa €500,000 on new drainage and levelling, in good faith that their license to use the lands would be renewed. The owners then cordoned off the lands and let the grass grow in order to dissuade the geese population from using the site. This conduct should not be rewarded with planning consent.

- The remaining sports pitch will be in close proximity to the special needs unit in the school, and have a negative impact on their learning environment as they need quiet spacious environments.
- The school does not support the proposals. The Board is representing ERST / Christian Brothers and not the views of staff, pupils or parents.
- Land is being sold off by the Christian Brothers to meet the cost of the redress scheme for abuse of school children by members of the congregation.
- The drawings are not to scale and there is insufficient information.
- Files on the SHD website could not be accessed – BP-01-PP Boundary Plan; CP-01-PP-Connection to surrounding lands; Independent tree surveys document schedule; Landscape document register and LD-02-PP Softworks Landscape Topsoil Depth Details. ref. to Southwood Park Residents Association v ABP & Others [2019] IEHC 504.
- Previous reasons for refusal for a scheme of 49 units on the site remain valid in relation to the current application.
- Material contravention of Policy RES5 and SIC8.
- Taoiseach Michael Martin said the right and proper thing to do would be to retain the land for the use of young people, the clubs and the local community.
- Material contravention of the zoning objective applied by the Council.
- Hardcourt area attached to the special needs unit is required under educational requirements and will be lost to facilitate the creation of a new sports facility for the school, in breach of the planning conditions for the unit.
- The Landscape and Visual Impact Assessment has not been uploaded to the Clonkeen SHD website.
- The application has not addressed the pre-application opinion matters.

Enclosures: Records of Light Bellied Brent Geese at Clonkeen; Sample of photos to accompany record of geese; Videos of Geese on the site; Photograph view from back garden at 27 Monaloe Park Road prior to the erection of fence and after erection of the fence; Photos of pitches in full use June 2017; Extracts from

submitted visual impact assessment; Extract article from Dublin People dated Oct 8th 2021 formed of a letter from a retired teacher regarding the context and opposition to, the sale and development of the playing fields; 2016 census data; Ariel view of the former arrangement of the playing field and site; Photos of Brent Geese on the site; Extracts from Daylight, Sunlight and Overshadowing Report; Photos of shadows cast from houses in the street upon over houses; Photo to illustrate drainage system installed; Photos of wood pellet chimney; Extracts from Irish Times and RTÉ 2018 regarding extreme pollution and breach of WHO guidelines caused by burning wood chippings / pellets; BOM Press Releases 2018 and Staff / Parent Statements demonstrating no support for the development; Drawing to illustrate effect of development; Statistics on geese sightings; School traffic survey 20/05/21; Brent Geese Observations 2017-2021; Photos of grounds in use as pitches for the school and community; Letter from FP Logue Solicitors to Marston Planning Consultancy identifying matters of concern with the application; APEM report on ecological impact assessment and NIS submitted with the application; Diagram to demonstrate difference in size of rugby and GAA pitches; Brent Geese Overview Anne-Marie Keady; Images illustrating the lands and facilities at the school that will be impacted and to illustrate impact of high ball stop netting; Various extracts from application documents; Extract from Dáil question records 12/07/17 stating lands have been sold and transaction cannot be reversed; Extract from Post Primary School Sites DoES requirements, School Site Area Analysis; Extract from Seanad Éireann debate 1/06/21 stating replacement of pitch areas with hard surface not appropriate; Photos of congestion, car parking difficulties and cyclist use in the area.

9.0 Planning Authority Submission

9.1. Dún Laoghaire Rathdown County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:

9.2. Principle of Development

- Planning Authority generally satisfied that a higher density development may be absorbed at this location, regard should be had to the receiving environment and the requirement to ensure that the residential amenity of established residences is preserved.
- In relation to impact upon the school, the Planning Authority does not consider section 1.2 of TGD-027 to be directly applicable to the assessment of the application, which applies to new schools. Open space calculations unclear and therefore unable to classify the type of open space left for the school. Overall, the Planning Authority has significant concerns that the proposed development will permanently compromise the existing operations of the school campus and on this basis should therefore be refused planning permission.
- Significant concerns that the proposed development will impede the potential of the school to expand into the future. The proposal is contrary to Policy SIC8 (Schools) and Section 8.2.12.4 (School Development) of the current County Development Plan and should therefore be refused planning permission.
- The Planning Authority is satisfied that the proposed development is in accordance with Section 7.1.3.6 of the Development Plan.

9.3. Residential Density

- Having regard to the overall size and location of the site in the context of the N11, the Planning Authority is generally satisfied that a higher density development can be successfully absorbed at this location, however sensitive interfaces require consideration.

9.4. Residential Amenities

- Planning Authority is satisfied that the proposed development will not unduly compromise the residential amenity of the properties to the north-east by reasons of overshadowing or by being visually overbearing.
- In relation to Block A1, concern with respect to the visual impact of the proposal when viewed from a number of the rear amenity areas of properties on Meadow Vale. Recommend the omission of the 2 no. fifth floor, 1 no. bedroom apartments (1B6 & 1B7) within Block A1.

- Satisfied that the proposal will not result in undue overlooking of existing properties within the vicinity and adequate separation distances are provided between the blocks and the arrangement for the proposed duplex apartments.
- Planning Authority satisfied that the proposed development will not unduly compromise the residential amenity of the properties to the south-east or south-west by reasons of overlooking, overshadowing or by being visually overbearing.
- Planning Authority has concerns with respect to the impact of block B6 on the residential amenity of properties to the west by reason of overshadowing and by being visually overbearing. Recommend a condition to reduce the height to a maximum of 2 storeys at its western end so that an appropriate graduation in height is provided.
- Note no western elevation for Block B6 submitted so unclear whether overlooking of properties to the west will occur, however windows on floor plans indicate overlooking would occur. Condition recommended to mitigate this impact.
- In light of the concerns raised in the Department of Education report that the proposed development in terms of the proximity to the shared boundaries with the school, will substantially constrain the future planning of the school site and will impede the ability of the school to cater to a larger pupil population in future, recommend that planning permission be refused.

9.5. Building Height and Scale

- The Planning Authority is generally satisfied that the additional height can be absorbed at this location and that upward modifiers apply in the case of the proposed development. However, suitable conditions are recommended to ensure an acceptable overall height. The Planning Authority is also satisfied that the section 28 building height guidelines are satisfied subject to conditions to amend the height proposed.

9.6. Layout and Urban Form

- Overall, Planning Authority is satisfied that the applicant has addressed layout concerns described at pre-application stage. Recommend a condition to

require the provision of a new pedestrian connection into Monaloe Park Road prior to the occupation of the proposed apartments.

- In relation to block A2-A4, recommend own door residences and terraces to the rear, to provide passive surveillance to central public open space. Request condition to secure the same.
- Planning Authority is generally satisfied with the palette of materials and finishes in keeping with the residential character of the surrounding area.

9.7. Apartment Standards and Amenities

- Proposed development complies with SPPR1 of the Apartment Guidelines.
- Floor areas, dual aspects and private amenity spaces to apartments are acceptable.
- Concern regarding overlooking from second floor level apartments within blocks B1-B4 of ground floor private rear gardens within the same block. Condition recommended to modify proposals to ameliorate this impact.
- On balance, Planning Authority is generally satisfied with separation between units in the proposed apartment scheme.

9.8. Landscaping and Communal Open Space

- Overall, the Planning Authority welcomes the revisions to the proposed development in terms of public open space and communal open space. Parks and Landscape Services have confirmed there are still concerns with a single entrance into the development and its ability to integrate into the existing urban fabric. Conditions recommended by the Planning Authority with respect to engagement with the Parks and Landscape team at the council to agree connection into Monaloe Park Road, landscaping details and tree protection measures.

9.9. Drainage Planning

- Lack of engagement from the applicant prior to submission of the application with the Drainage Planning Section at the Planning Authority.
- Request conditions in relation to SuDS, attenuation systems, green roofs, flow control devices and stormwater audit.

- Sit Specific Flood Risk Assessment is acceptable.

9.10. Transportation Planning

- As the connection to Monaloe Park Road is only indicative, it is considered arbitrary and does not accurately reflect travel times to and from the proposed development.
- Transportation Planning consider the layout to be contrary to Section 8.1.1.1 Policy UD1: Urban Design Principles (i) Permeability. Onerous route for pedestrian and cyclist to access surrounding areas not in accordance with DMURS.
- A secondary vehicular access should be provided to maintain access (emergency or otherwise) in the event of a closure to Meadow Vale/Clonkeen Road.
- The layout proposed is substandard as a result of the above points and therefore recommend a refusal on this basis.
- Transportation Planning consider the proposed reduced car parking unacceptable. Recommend condition regarding the same.
- Provision of disabled parking is considered acceptable. Recommend condition with respect to EV charging points.
- Cycle parking accords with DLRCC standards. Request further details by condition of type and cover for surface level parking.
- Connectivity is considered to be poor. Engagement with landowners to deliver the Monaloe / Texaco pedestrian / cycle connection has not been demonstrated. Recommend condition to require delivery of this link.
- Recommend condition in relation to construction management traffic management.
- Recommend condition that all road and associated works be constructed to DLRCC's taking in charge standards.
- Stage II and Stage III quality audit requested by condition.

9.11. Waste Management / Construction Management

- The Environmental Enforcement Section for the Planning Authority have indicated general satisfaction with the submitted documents, recommend conditions with respect to operational noise planning, rock excavation, environmental monitoring, circular economy and pest control. Environmental Health Officer for the Planning Authority also recommend condition with respect to noise survey, liaising with the community with respect to potential complaints arising from construction activities and hours of works.

9.12. Ecology

- The Planning Authority's Biodiversity highlights concerns with the submitted NIS.
- Description of Baseline Ecological Environment in the NIS does not evaluate the importance of the site for wintering bird KORs (it is in appendices).
- No pre 2019 data presented. The assessment in the NIS does not acknowledge the possibility that changes in land management have altered the use of the site by Brent geese and therefore the possible historic / previous use of the site by Brent geese has not been addressed to provide a more balanced assessment.
- Inconsistencies in habitat description which is misleading. No comparison of plant species between the proposed development area and Clonkeen College pitches.
- Use of frequency visits to assess the sites importance for Brent geese requires a comparison with the usage frequency of similar sites in the area.
- The NIS does not provide sufficient scientific evidence to support the presented evaluation of the proposed development site and adjacent Clonkeen College pitches in relation to Brent geese.
- Reduced numbers of curlew on the site appear to correspond to increases in grass height. The NIS does not acknowledge the possibility that changes in land management have altered the use of the site by curlew.
- Pg. 25 of the NIS states population of curlew using the site is of county importance, pag.35 states numbers recorded do not identify Clonkeen College as a key site for this species. Curlew are not listed as a KER or as being of

county or local importance in the EclA. The NIS and EclA should be consistent and have evidence based justification.

- The NIS does not provide sufficient scientific evidence to support the presented evaluation of the proposed development site and adjacent Clonkeen College pitches in relation to curlew.
- Impact of displacement of brent geese flight paths and impact on flight take off / landing on the adjacent Clonkeen College pitches is not discussed in the NIS.
- No map or description of brent geese range to support conclusions around potential impact.
- The identification of other ex-situ terrestrial grassland sites utilised by brent geese in the wider area is not sufficient along. Additional evidence is required such as a) the location of the other sites in the Dublin area, including a map of the sites close to the proposed development site; b) information on which of these sites the Clonkeen College Brent Geese are most likely to be using; c) what the average flock size is at the other sites compared to Clonkeen College; d) whether the other sites are zoned for development; e) whether the other sites are likely to have changes in land-use / management such as reduced mowing, change of grass pitches to all weather pitches etc; and f) what the current (and future) disturbance levels are at the other site.
- No explanation in NIS or EclA as to why loss of 5% of foraging habitat is not of at least local significance. In addition, records suggest 19% of birds are using the sites, despite having only 5% of habitat.
- It is considered that the NIS does not provide sufficient scientific evidence to support the presented assessment of construction, operation and cumulative impacts arising for the proposed development on brent geese.
- In relation to curlew, no information provided on the location of additional sites, their size, habitat present, in the context of foraging habitat that would be impacted at Clonkeen. The NIS does not provide sufficient scientific evidence to support the presented assessment of construction, operation and cumulative impacts arising from the proposed development on curlew.

- Insufficient evidence included in the EclA to support the conclusion that ‘no significant environmental impacts are likely in relation to the construction or operation of the proposed development.’
- Key Ecological Receptors (KERs) are not clearly identified from the baseline survey work or highlighted in the impact assessment. No breeding bird surveys and not identified as a limitation. Buzzard and Sparrowhawk recorded in the NIS but not listed in EclA. Potential local (or higher) level impacts to KORs identified in the NIS are not considered (e.g curlew / oystercatcher / brent geese). Inconsistencies between the NIS and EIA in relation to overwintering wildfowl.
- The EclA does not provide sufficient scientific evidence to support the presented assessment of construction, operation and cumulative impacts to KERs.

9.13. EIA and AA

- The Planning Authority notes that ABP is the competent authority in relation to EIA and AA. However, ABP should have regard to the commentary of the DL RCC Biodiversity Officer which concludes that insufficient evidence is included in the NIS to support the conclusion that the proposed project will not have an adverse effect on the integrity of any European Site.

9.14. Other Matters

- Condition recommended with respect to securing appropriate lighting.
- Alternative provision to be sought to satisfy Part V requirements.
- Details of boundary treatment to Meadow Vale required. Concern regarding paladin fence along the perimeter of the site with existing playing pitch. A rendered wall finish with natural stone capping or natural stone wall or approved brick is preferred.

9.15. Conclusion

- Planning Authority acknowledge that the proposed development has been designed to a high standard, utilising a high quality architectural design. However significant concern that the proposed development will permanently

compromise the existing operations of the school campus. The proposal will impede the schools potential to expand into the future. The submitted NIS is insufficient and does not provide scientific evidence to support the presented assessment.

9.16. Planning Authority recommends that the permission be refused for the reasons below:

1. Having regard to the overall scale of the proposed development and its location in the context of the existing school campus, which will leave the school on the smaller residual site, it is considered that the proposed development will have a detrimental impact on the ongoing operation of the existing school campus with respect to outdoor amenity and play space. In accordance with the recommendations of the Department of Education, the proposed development in its current form will substantially constrain the future planning of the school site and is likely to impede the ability for the school to address capacity requirements into the future. In this regard, the proposed development is considered to be contrary to Policy SIC8 (Schools) and Section 8.2.12.4 (School Development) 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.
2. The Planning Authority has an obligation to consider the educational needs and requirements of the wider area, of which education was the last permitted use on the site. This is irrespective of ownership patterns and falls under the Planning Authority's wider obligation to consider the objective under this zoning to 'protect and/or improve residential amenity' (i.e. Zoning Objective A). The provision and support of sufficient and viable schools in appropriate locations is an integral part of delivering successful residential neighbourhoods. Having regard to the overall scale of the proposed development and its location in the context of the existing school campus, the operation of the existing school campus with respect to outdoor amenity and play space will undermine its ability to expand in the future. On this basis, the proposed development is considered to be contrary to Zoning Objective A of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 as it fails

to 'protect and/or improve residential amenity'. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. The submitted NIS does not provide sufficient scientific evidence to support the presented evaluation of the proposed development site and adjacent Clonkeen College pitches in relation to brent geese and curlew. There is no evaluation of the importance of the proposed development site for wintering bird KORs. A clear summary of the peak and mean number of birds and frequency of visits in relation to desktop data from surrounding sites and evaluation of the site for each KOR (e.g. County / National / International importance) is required to enable an evidence-based justification of the evaluation of this site for these KORs. In addition, the assessment in the NIS does not acknowledge the possibility that changes in land management have altered the use of the application site by Brent Geese and Curlew. As a consequence, the possible historic / previous (pre 2018) use of the site by Brent Geese and Curlew has not been addressed to provide a more balanced assessment of the proposed site. Therefore, it has not been shown on the basis of clear, objective, scientific evidence, with a high degree of certainty, that there will be no impact on the conservation objectives of the site. It has not been adequately demonstrated to the satisfaction of the Planning Authority that the proposed works would not negatively impact on the biodiversity and conservation objectives of the subject site and surrounds, and therefore to permit the development would be contrary to Section 4.1.1.2 Appropriate Assessment and Section 4.1.3.2 Policy LHB 20 Habitats Directive 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.
4. Although the submitted NIS states that 'The presence of housing enclosing Clonkeen College pitches on three sides has the potential to cause brent geese to abandon the 0.825ha of suitable foraging habitat at Clonkeen College entirely', the NIS does not provide further detail on the mechanisms by which displacement might occur which includes consideration of impact to flight / paths and landings. Additional evidence is also required to fully assess

the loss of the Clonkeen College foraging sites such as: a) the location of the other sites in the Dublin area, including a map of the sites close to the proposed development site; b) information on which of these sites the Clonkeen College Brent Geese are most likely to be using; c) what the average flock size is at the other sites compared to Clonkeen College; d) whether the other sites are zoned for development; e) whether the other sites are likely to have changes in land-use / management such as reduced mowing, change of grass pitches to all weather pitches etc.; and, f) what the current (and future) disturbance levels are at the other sites. In the Cumulative Impacts section of the NIA, it is stated that various development plans have been reviewed. However, there is no mention of whether any of these alternative Brent Geese sites are zoned for development / any other potential land-use change. In the absence of this information, it is not possible to demonstrate that these alternative sites will offer long-term foraging sites for Brent Geese if the Clonkeen College site is permanently abandoned. It is therefore considered that the NIS does not provide sufficient scientific evidence to support the presented assessment of construction, operation and cumulative impacts arising from the proposed development on Brent Geese. In this regard, it has not been adequately demonstrated to the satisfaction of the Planning Authority that the proposed works would not negatively impact on the biodiversity and conservation objectives of the subject site and surrounds, and therefore to permit the development would be contrary to Section 4.1.1.2 Appropriate Assessment and Section 4.1.3.2 Policy LHB 20 Habitats Directive 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.

9.17. Suggested Conditions: 40 conditions are recommended in the event that the Board determines to grant planning permission, of note are the following:

- Condition 2 requiring amendments to blocks; condition 3 requiring submission of details of pedestrian connection to Meadow Vale Road and facilitating a pedestrian access adjacent to the boundary with the existing service station on Clonkeen Road.

9.18. Planning Authority Internal Departmental Reports

9.19. Reports received from the Transportation Planning Section; Drainage Planning Section; Housing Department; Biodiversity Officer; Environmental Enforcement Section; Public Lighting Section; Environmental Health Officer; and Parks and Landscaping Services, with pertinent points included in the Chief Executive Report as summarised above.

9.20. **Elected Members**

9.21. A summary of the views of elected members as expressed in the Dún Laoghaire HEPI Area Committee Meeting at the meeting on 4th October 2021 is included in the Chief Executive Report and summarised below.

- Concern regarding scale, height, massing, bulk;
- Out of character with the surrounding area and too high in context;
- Photomontages misleading and not representative of true impact;
- Adverse impact on residential amenity, visually overbearing, overlooking of schools surrounds;
- Material contravention of the Development;
- Concern regarding flooding;
- Traffic congestion;
- Traffic hazard;
- Overlooking, overshadowing;
- Loss of facilities, removal of pitches inappropriate;
- Sectioning off of site negatively impacting brent geese;
- Contrary to Habitat's and Bird's Directive;
- SHD process has not made a positive contribution to housing crisis and not sustainable planning;
- Contravention of applicable zoning objective;
- Doesn't help with housing need in the area;
- Concern regarding public open space provision;

- Concern regarding pre-planning process;
- Premature in context of re-zoning of the site;
- Curtail the special needs programs of the school;
- Water supply to the site not adequate;
- Conditions should require water infrastructure upgrade prior to commencement of development;
- Concern regarding layout, size and what school will be left with;
- Concern regarding single aspect units, north and east facing;
- Permanent amenity space associated with the school is unacceptable;
- Board of Management does not represent the school or community;
- Does not address housing need;
- Wrong development for the site;
- Concern regarding distribution of part 5 units;
- Developer focused on profits not long term sustainable development;
- Construction impact concerns;
- Lack of playing pitches in the area;
- Natural grass being replaced by artificial grass adverse impact on protected bird species.

10.0 Prescribed Bodies

10.1. An Taisce

- Potential Impacts to Protected Birds: The Likely significant risk to light-bellied Brent geese arises from loss of or disturbance to inland feeding habitat in an ex-situ site connected to SPAs. Curlew were observed in the development area. It appears that a fence was erected around the site in the summer of 2019 after which the site was not mown. The increasing length of the grass appears to have been a factor in the decline in numbers on the site. Use of the site by Brent geese and Curlew prior to the erection of the fence should be

evaluated to ensure that accurate baseline data are used in the assessment. There also appears to be significant differences in the bird counts obtained in the surveying conducted for the NIS and those conducted by observers in the local area. This should be evaluated as part of the Board's Appropriate Assessment.

- Cumulative Impact Assessment: The logic that a project cannot have an in-combination impact if it does not have an individual impact is flawed. The purpose of the cumulative impact assessment is to look at the project in a holistic, cumulative manner. While one application alone may have no adverse impact on the integrity of a Natura site or its qualifying interest, a proliferation of developments within the zone of influence could easily prove ecologically problematic. We therefore submit that this conclusion is not compliant with Article 6(3) of the Habitats Directive.
- Habitats Directive Legal Obligations: It is now well established in law that approval can only be granted for plans and projects when it has been established beyond all reasonable scientific doubt that the subject proposal will not adversely impact any Natura 2000 sites. Ref. to the Sweetman and Kelly judgements in this regard.
- Additional considerations: The Board should ensure that adequate services and infrastructure exist to serve the proposed development prior to any grant of permission. This includes:
 - Adequate public transport infrastructure and capacity;
 - Safe pedestrian and cycling infrastructure in the area around the site and connecting the site to local services;
 - Sufficient wastewater treatment capacity;
 - Sufficient shops and amenities in the local area; and
 - Employment opportunities in the area.

10.2. Department of Education

- The lands proposed for development are comprised within the curtilage of the existing school site. They are located behind the existing school buildings and

are currently mostly used as playing pitches. The area of the proposed development lands is c.3.3ha. If the development is permitted as proposed, the area of the school site will be reduced to c.3ha.

- The Department of Education has had no meaningful engagement from any of the primary stakeholders affected by this proposed development which inevitably will have significantly constraining impact on the possible further development of Clonkeen College as an educational provider in this area.
- The key underlying planning principles of the NPF around consolidation and intensification of existing settlements will inevitably generate a requirement for future school places. Therefore the future intensification of this area leaving the school on the smaller residual site will impede the ability to address any such requirement. Should ABP decide to grant consent for this SHD on the balance of issues, the Department of Education requests that it should be conditioned to establish a minimum building-line off the boundaries of the SHD of a suggested 25m to the northeast and 35m to the southeast in each case in order to provide the Department with a reasonable prospect of further developing the school in line with good planning practice and a reduced risk of Third Party objections by future residents of the SHD. Further request that any consent be conditioned that all of the school facilities, including any future school pitch, shall be determined as an amenity for the school and shall be the subject of re-designation for future educational needs by the educational authorities based on emerging pedagogical needs at the time. This condition should be binding and transferable through the developer, his successors (including residents) or asset management or similar entity thereby future proofing the education provision in the community.
- Note the Board of Managements letter of support in lieu of the provision of an all-weather pitch. Not clear if this forms part of the application. Plans not available for download from the SHD website. Not possible to locate information regarding the consequential knock-on and redesign of the existing school facilities to facilitate the intended pitch and associated facilities. The development of blocks of residential units up to the proximity of the shared boundaries will substantially constrain the future planning of the school site.

- Note the 'Proposals for Future development of the School – Clonkeen College Capacity Study' document submitted. Schools are more than simply buildings, and the availability of adequate outdoor amenities and infrastructure is key to the successful delivery of the curriculum and wellbeing of pupils and staff. Any proposals by the applicant that determines a plot ratio for schools and schools sites or any proposals for demolition and redevelopment of recently provided school accommodation (in the case of Clonkeen College) in order to facilitate this or other developments establishes a dangerous precedent and potentially excessive additional development costs on the Exchequer. Matters such as school planning and provision are complex and must be balanced within budget and in the context of competing available resources.

10.3. Irish Water

- In respect of Water: Approximately 60m of new 200mm ID pipe main to be laid to connect the development site, this will be delivered via self-lay by the applicant where they must obtain any consents/permissions required.
- In respect of Wastewater: No stormwater from the development shall enter the Irish Water Network. Irish Water advised at Pre-Consultation that there is existing Irish Water infrastructure(s) within the site boundaries of the proposed development site. The applicant was requested to engage with Irish Waters Diversion Team in order to assess feasibility of any potential build over/diversion(s) which may be required ahead of the applicant progressing to SHD application. The applicant has not engaged with Irish Water Diversions and therefore Irish Water will request that the board ensures appropriate conditions be attached to any grant of permission.
- Design Acceptance: The applicant is entirely responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary which is necessary to facilitate connection(s) from the boundary of the Development to Irish Water network(s), as reflected in the applicant's Design Submission.
- Recommend conditions in relation to connection agreements, no storm water to Irish Water network, prevention of build over assets and adherence to standards.

11.0 Oral Hearing Request

- 11.1. Six formal requests for an Oral Hearing were received in relation to this application. The requests are contained within submissions that reflect upon a range of issues as outlined in section 8 above. Specific requests relate to the use of the site by Light Bellied Brent Geese, the permanent loss of recreational amenity facilities at Clonkeen College which would fall below Department of Education standards, the lack of an EIAR, reference to the site as brownfield, the impact upon the SEN unit at the school, the loss of community use of the pitches, and details of the wood pellet heating system bounding the site.
- 11.2. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:
- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
 - (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.
- 11.3. Having regard to the circumstances of this case, to the issues raised in the observations received by the Board, and the assessment set out in section 12 below, I consider that there is sufficient information available on the file to reach a conclusion on the matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this instance.

12.0 Assessment

- 12.1. The planning issues arising from the proposed development can be addressed under the following headings-
- Principle of Development
 - Density
 - Height, Scale, Mass and Design
 - Neighbouring Residential Amenity
 - Proposed Residential Standards

- Traffic and Transport
- Ecology and Trees
- Material Contravention
- Planning Authority's Reasons for Refusal
- Other Issues

12.2. Principle of Development

12.2.1. Land use zoning

12.2.2. I note third party submissions stating that the proposed development is contrary to the zoning objective for the site and/or amounts to a material contravention of the zoning. I also note that the Planning Authority recommends that the proposed development be refused, in part, as a consequence of it being contrary to the zoning objective for the site. I consider material contraventions in detail in section 12.9 below and the Planning Authority's recommended reasons for refusal in section 12.10 below. Here I consider the principle considerations of the zoning of the site. I also note third party representations regarding the draft County Development Plan and its zoning of the site further in this section below.

12.2.3. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites.

12.2.4. The subject site is zoned 'Objective A' with the associated land use objective '*to protect and-or improve residential amenity*'. Residential is a permitted in principle use, and childcare is an open for consideration use for this land use zoning. Therefore, the proposed development of residential units and creche, conforms with the land use zoning for the site.

12.2.5. In relation to conformity with the objective for the zoning, this requires a qualitative assessment which I carry out in subsequent sections of this report 12.4, 12.5 and 12.6 below. In my opinion, there is nothing inherent in the proposed use of the site that would be contrary to the zoning under the current Development Plan.

12.2.6. I note third-party concern regarding the zoning of the site under the current plan, compared to an 'INST' objective – '*to protect and/or provide for Institutional Use in open lands*' under historical plans. I can confirm that the previous county

development plans held on the council's website, indicate that the previous 2010-2016 plan had an INST designation for the Clonkeen College site. This did not however appear in the prior 2004-2010 plan. Therefore, it does not appear to me that there has been a consistent institutional objective over the site. In any case, it is not within the remit of the assessment of this current SHD application to determine the legitimacy of the zoning or objectives for the site, which is accepted and applied, in light of the adopted plan.

12.2.7. I note a third-party representation that the planning application is premature pending adoption of new County Development Plan. I consider that the application can be appropriately assessed against all current adopted planning policies in local, regional and national plans, and I have considered these policies as part of my assessment.

12.2.8. In relation to the zoning under the draft Dún Laoghaire-Rathdown County Development Plan 2022-2028, this includes a change to the land use zoning of the site to Objective SNI *'To protect, improve and encourage the provision of sustainable neighbourhood infrastructure.'* Residential is an open for consideration use under that zoning, which would require consideration of how a proposal protects/improves or maintains the recreational value of the overall SNI zoning. Amendments to the draft plan are currently out to consultation and it is expected that the plan will be adopted at the beginning of 2022. However, the draft Development Plan is not a material consideration under section 9 of the 2016 act. It would not be appropriate to determine this application on the basis of the contravention of provisions under that draft plan. Therefore, the planning framework for assessment of the application is through adopted planning policy as expressed in section 6 of this report, and specifically, the current Development Plan and associated zoning of the site.

12.2.9. Institutional Lands

12.2.10. As outlined above, the site does not have an INST objective which designates the institutional lands under the Dún Laoghaire Rathdown Development Plan. However, the most recent use of the site was as part of the sports pitches for Clonkeen College. The applicant has addressed policies applicable to institutional lands under the Development Plan as part of their submitted Material Contravention Statement which I assess in section 12.9 below. The Planning Authority have not applied policies applicable to institutional lands in their submitted Chief Executive report on

the application. Third parties have suggested that the policies applicable to institutional lands should apply given the most recent use of the site as part of the school.

12.2.11. In my opinion, as the site is not designated INST, the policies applicable to that objective do not apply. However, I note that policy RES5: Institutional Lands and section 8.2.3.4 in the Development Plan refer to parcels of land in institutional use, rather than lands with an institutional objective. Under section 8.2.3.4 of the Development Plan, the Planning Authority has classified the site in the Chief Executive report under part (vii) Infill, and not part (xi) Institution Lands, and this indicates that the Planning Authority considers that these aforementioned policies apply to lands with an institutional objective under the Development Plan rather than lands in institutional use. In my view, the policies applicable to institutional lands apply to those lands with an INST (institutional lands) objective under the Development Plan. It is clear that the site formally had such an objective under historical plans, and this was intentionally removed under the current Development Plan. The Planning Authority has also classified the site as 'infill' and has not applied policies applicable to institutional lands in their Chief Executive report on the application. As a result, it is clear in my opinion, that the application of policies for institutional lands do not apply to the subject site. I address this further in section 12.9 below in relation to material contraventions.

12.2.12. Housing delivery in Dún Laoghaire-Rathdown

12.2.13. I note third party representations in relation to housing delivery in the Dún Laoghaire Rathdown County area, and that the OPR (Office of the Planning Regulator) has concluded that too much land is zoned for housing in the county. The report of the OPR is in relation to the draft Development Plan due for adoption in 2022 and does not relate to lands zoned under the current Development Plan. Therefore, the OPR's comments in relation to housing delivery in the county are not relevant to the current application in my view. The proposed development will not deliver excessive housing in my view. The suitability of this site zoned for the residential development proposed, requires consideration of national planning policy approach to compact growth, and the characteristics of the site in relation to that framework for the efficient delivery of sustainable housing. I address the characteristics of the site compared to the national planning policy approach in more detail in section 12.3 below. Overall, I am satisfied

that the proposal should not be rejected in principle, on the basis of housing delivery considerations for the county.

12.2.14. Compatibility with Clonkeen College

12.2.15. I note third party submissions regarding the impact of proposal upon the educational operations at Clonkeen College, alongside concern regarding the ability of the school to meet future pupil enrolment needs. The Department of Education have also provided a submission in relation to the impact of the proposed development upon both the operational needs and potential for future expansion of the school. The Planning Authority recommend that the application be refused, in part, as a result of the adverse impact it has upon the operation of the school and its potential future expansion.

12.2.16. Policy SIC8 (Schools) states that it is Council policy to ensure the reservation of primary and post-primary school sites in accordance with the requirements of the relevant education authorities and to support the provision of school facilities and the development / redevelopment of existing schools in the County.

12.2.17. Section 8.2.12.4 (School Development) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 states that in the assessment of individual planning applications for redevelopment of existing schools, the Planning Authority will have regard to specific criteria, including the overall need in terms of necessity, deficiency and opportunity to enhance or develop schools. Regard to the specific requirements of the Department of Education and Skills is also noted.

12.2.18. The Department of Education have raised concern that the proposed development will impede the ability to expand the school site in future, should it need to respond in future to expanded capacity requirements. In their submission they state that *“The development of blocks of residential units up to the proximity of the shared boundaries will substantially constrain the future planning of the school site.”* Conditions are therefore suggested by the Department to require the proposed buildings to be set back from the boundaries by 25m (to the northeast) and 35m (to the southeast). It is also requested that any consent for the proposed development be conditioned on the basis of provision of a future school pitch. I note that the current set back of adjacent residential properties to school boundaries does not reflect separation distances to the extent requested by the Department.

12.2.19. The applicant has submitted a 'Policy Response Document' to describe capacity requirements and development potential of the school site in future. This concludes that the number of young people in the selected catchment area is less than the national average and that there is no immediate demand for further post primary facilities. In terms of development potential of the school, the ability to extend upwards with the addition of further storeys is identified as a possible solution. The Department of Education states the following in relation to the applicants document:

"Schools are more than simply buildings, and the availability of adequate outdoor amenities and infrastructure is key to the successful delivery of the curriculum and wellbeing of pupils and staff. Any proposals by the applicant that determines a plot ratio for schools and schools sites or any proposals for demolition and redevelopment of recently provided school accommodation (in the case of Clonkeen College) in order to facilitate this or other developments establishes a dangerous precedent and potentially excessive additional development costs on the Exchequer."

12.2.20. In relation to the conditions suggested by the Department, in my opinion these are unworkable and the requested set-back could not be realistically applied to any grant of consent for the proposed development. It is also not possible to attached conditions to land outside of the control of the applicant. There is no indication that the school site is in the same ownership or control as the subject site and the applicant does not have any control over the school site. Therefore, it would be impossible for the applicant to be required to deliver infrastructure, including a new pitch, by way of a condition attached to any grant of consent over the subject site. In any case, these set backs would be unnecessary in my view and I assess potential overlooking of the school site in detail in section 12.5 below. The application of the conditions suggested by the Department would also materially alter the development as currently proposed.

12.2.21. In relation to the applicants submitted document, this presents a weak justification in my view. The catchment area should have considered information around admissions to the school which is freely available to view on the school's website. The conclusions reached around the ageing population of the catchment area do not necessarily follow in my view. There is also a lack of recognition in the document regarding new housing development proximate to the school, particularly in Cherrywood, thereby potentially increasing demand for school places. Although new

school provision is included as part of that development scheme. In relation to the suggested solution for future expansion, this is not realistic in my view. To assume that the school can add additional storeys to resolve capacity issues in future fails to acknowledge practical and financial considerations around such an approach. The existing school has not been constructed to facilitate additional height so this solution could require a total re-build of the school. However, while in my opinion this submitted document does not present a convincing case, this does not necessarily mean that the application should be rejected in my view, specifically in the absence of any specific expansion plans for the school.

12.2.22. The Planning Authority recommend that the application be refused, in part, as a result of the detrimental impact on the ongoing operation of the existing school campus with respect to outdoor amenity and play space and will undermine its ability to expand in the future. I also address the Planning Authority's recommendation in section 12.10 below. I agree with the Department and the Planning Authority that it is necessary to consider the potential impact of the proposed development upon both the operational effectiveness and future expansion potential of the school site, however I do not agree with the conclusions reached by the Planning Authority and the Department, for reasons I expand upon further below. I note the letter of support submitted by the Board of Management of the school, on the basis that the development will facilitate provision of an all-weather facility (with ball stop netting and floodlighting) for the school. I also note that objection to the proposed development has been received from a significant proportion of the school community and that the all-weather facility does not form part of the submitted details in the application submission.

12.2.23. In my opinion, the conclusion reached by both the Department and the Planning Authority fails to give adequate weight to the zoning of the site for residential development, as well as the lack of an INST (institutional land) objective over the site. There also appears to be an assumption that the rejection of this development proposition would cause the subject site to be reattached to the school's sports grounds – which is not necessarily the case in my view. The proposed development does not result in the total loss of the schools recreational area as the schools use of the subject site ceased prior to submission of this application. A sufficient sports ground remains within the schools domain, and the school has demonstrated

operational ability on the basis of that reduced sports pitch in the intervening years since segregation of the subject site occurred.

12.2.24. There are many examples of lands currently in institutional use and zoned for residential in the County that also have an INST (institutional lands) objective (for example SHD ref.310882-21 at St Laurence College, Wyattville), however in this case, the subject site is specifically zoned residential without any objective for institutional lands or indeed for the provision of a school (indicated by the PS and PPS designations in the Development Plan maps). No evidence has been submitted to specifically describe how the proposed development would impede the future development / redevelopment opportunities of the school (with regard to policy SIC8), and the lack of an INST objective over the site indicates that the Planning Authority has not highlighted a need to preserve this school site or its grounds. The Planning Authority indicate that the proposals are contrary to policy SIC8 and section 8.2.12.4, however these both relate, in the main, to the reservation of sites for new schools and are indicated by the PS and PPS objectives under the Development Plan map. In terms of redevelopment opportunities for the school, there remains external space for the school and no evidence is submitted to demonstrate how the proposed development design would impede future expansion options.

12.2.25. The Department states that if the development is permitted as proposed, the area of the school site will be reduced to c.3ha. However, use of the subject site as part of the school has already ceased for a number of years. The Department does not provide specific calculations with respect to the required outdoor recreational space for the school. The site is zoned for residential use and does not have an institutional land use objective. The school retains a sports ground which it has demonstrated through its continual operation, can fulfil its recreational requirements, albeit with reduced provision of exterior teaching and sport space.

12.2.26. In terms of the impact upon the future expansion needs for the school, I have given significant consideration of the Departments comments in this regard. I agree with the Department, as outlined above, that the applicant's suggested solution of vertical expansion is unrealistic. However, there is no adopted plan in place for the expansion of the school, and therefore in my opinion, it is difficult to justify an in principle rejection of the application on the basis of this. This is specifically the case given the lack of any institutional objective over the site which requires specific regard to the

future expansion needs of a school. The expansion of existing schools to meet changing capacity needs in the area in general, will require consideration of total educational provision in the area, and it is for the Department and Planning Authority to determine specific requirements in that regard. The institutional land use objective was intentionally removed under the current Development Plan and, there is no certainty in relation to expansion plans for Clonkeen College. The general set back requested by the Department is both unachievable and lacking a clear basis, in terms of the degree of set back requested and would result in a materially different development proposition to that set out in the current application. There is no evidence that the remaining school could not be developed / redeveloped in terms of compliance with policy SIC8 under the Development Plan, and any 'redevelopment' option might not necessarily form an expansion of the school. In this sense I note that policy SIC8 does not specifically relate to the expansion of school sites.

12.2.27. In relation to the potential impact upon the special educational needs (SEN) unit within the school, I note that representations from the school community highlight that in order to meet the schools' requirements for recreation on the reduced sports ground area, a conflict arises with the ability to meet the operational and functional needs of the SEN facility on the site. In my opinion, this is a matter outside the scope of the current development proposition with a site area that is separate to the school. Balancing the needs of competing educational requirements is a matter for the school to resolve. Whilst it is clear that the segregation of the subject site for redevelopment has changed the way the school operates on its site; this is not a matter that can be resolved by the Board. The morality surrounding the decision of the landowner to dispose of the subject site to a developer (as raised by third parties) is not a material planning consideration and the zoning allows for the development proposition before the Board. The difficulties that the school now faces in terms of the provision of recreational uses and consequential conflict with the operations of the SEN unit, arise as a consequence of the reduced sports pitch for the school which occurred a number of years ago, and regardless of the details of the proposed development currently before the Board for consideration.

12.2.28. The only question that remains then, is whether the locating of the proposed development upon the subject site generates significant negative impact upon the

amenity of the school site, and I address this as part of my wider assessment of amenity impact in section 12.5 below.

12.2.29. Brownfield classification

12.2.30. I note third party submissions regarding the applicant's classification of the subject site as 'brownfield' as referenced in submitted documents. For planning purposes, the reference to a site comprising 'brownfield' merely relates to its state as previously developed land. Third parties are concerned that classification of the site as 'brownfield' is incorrect, and that planning policies relating to the development of brownfield sites should therefore not apply.

12.2.31. The subject site formally formed part of the sports grounds to Clonkeen College and in that sense, forms part of a previously developed site. However, it also comprises open lands that as an isolated land parcel, have not been previously developed, and this is evidenced in the applicant's submitted Archaeological Assessment, which note the site as comprising agricultural fields prior to use as a sports ground for the school.

12.2.32. In my opinion, the description of this site as being brownfield is not an overriding factor in assessing the acceptability of the proposals on the site. This is because while there is a focus in national planning policy upon the efficient development of brownfield sites, that is not to the exclusion of all other sites, including undeveloped infill and greenfield sites. The key factor for consideration is the characteristics of the site, particularly its accessibility to public transport and employment opportunities, which are defining factors in determining the scale of development that might be appropriate on the site. National planning policy also describes both infill and brownfield sites as being the optimum types of site for compact growth where they meet accessibility standards, and I consider those matters as part of my assessment of density in section 12.3 below.

12.2.33. Loss of community infrastructure

12.2.34. The impact that the proposed development has upon community infrastructure provision is also raised in third party submissions. I also note policy OSR11 Protection of Sports Grounds/Facilities in the Development Plan. Prior to the segregation of the subject site from the wider Clonkeen College lands, it was in use as part of the sports grounds for the school, which were made available for wider community use.

12.2.35. The site is not in formal community use, and as set out above, the proposed residential and creche use on the site is in conformity with the land use zoning. Therefore, policy OSR11 does not apply in my opinion, as the subject site has not been in community use for a number of years. While the previous use of the site included community use of the sports pitches, this has ceased for an extended period, the site is zoned for residential use and it is not subject to an institutional land objective. The adjacent school site also retains a sports pitch, albeit reduced in size.

12.2.36. Validity of the application

12.2.37. I note third party concern regarding the declared legal interest in the site as set out in the submitted application form. This indicates that the applicant is not the owner of the site and that a letter of consent to proceed with the application is provided from the Christian Brothers as the landowner. It is then indicated that the landowner does not control / own any abutting lands. Concern is raised as previous statements indicate that the site has been sold to a developer and if this is not the case, then third parties query how the site can be in different ownership to the school. In my opinion, the application is valid on the basis of the submitted application form and letter of consent. It is not unusual for development sites to be in the ownership under different company entities, essentially separating title from other sites. The school is operated by the Edmund Rice Schools Trust and that may explain that the Christian Brothers is not highlighted as owner of both the development site and the school. It is also common for the disposal of a site to be under contract pending the achievement of planning consent, so while the site may be legally under title to the Christian Brothers currently, this could be subject to a contract of sale that completes on securing planning consent for development for the site. In any case, these matters do not impact the validity of the application in my opinion, and I am content that the Board is able to consider the proposed development on the basis of the submitted details.

12.2.38. In relation to access to the application documentation and drawings on the SHD website for the submission, I note that third parties could not access all plans, all of the time. Particularly the following: BP-01-PP Boundary Plan; CP-01-PP-Connection to surrounding lands; Independent tree surveys document schedule; Landscape visual assessment; Landscape document register; and LD-02-PP Softworks Landscape Topsoil Depth Details. However, the vast majority of application

documents were available to view online. All documents were also available to view from other sources, including at An Bord Pleanála's offices and Planning Authority offices and there were 92 submissions received from third parties on the application. Although, I recognise that there is an obligation upon the applicant to make application documents available on a dedicated website for the SHD application and it is unclear the extent of what documents were not available and for how long.

12.2.39. Previous Planning Refusal on the Site

12.2.40. I note third party representations regarding the previous planning application that was refused on the site (ref. D08A/0042) and that this current application should be refused for the same reasons. That previous application was assessed under previous planning policies that have subsequently been superseded at both local and national level. As a result, my assessment of the proposed development is against the most current and up to date planning policy as described in section 6 of this report and referenced throughout my assessment.

12.2.41. SHD process

12.2.42. In relation to third parties and Elected Member representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and until that framework is expunged or replaced, it forms the legitimate process for the determination of this application.

12.3. **Density**

12.3.1. A number of representations have been received regarding the proposed density of the development. Concerns centralise around the appropriateness of the density level proposed for the location.

12.3.2. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential

Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land. The Development Plan states in section 8.2.3.2 'Quantitative Standards' that residential density should be determined with reference to Government Guidelines for Sustainable Residential Development, with a general principle to optimise density of development in response to type of site, location and accessibility to public transport.

- 12.3.3. The applicant contends that the site falls within the definition of 'intermediate urban location' under the Apartment Guidelines where densities in excess of 45 dwellings per hectare are considered acceptable. These are locations where a site is 10 minutes walking distance to principal town or suburban centres or employment locations (including hospitals and third level institutions); sites between 5-10 minutes walking distance to high frequency (every 10 minute peak hour) urban bus services; sites within 5 minutes walking distance of reasonably frequent (every 15 minute peak hour) urban bus services.
- 12.3.4. The proposed development has a net density of 90 units per hectare. The subject site is within a 10 minute walk to bus stops operated by Dublin Bus and Go Ahead Ireland for services no.'s 63/63a and 84/84a. With high frequency routes served by bus stops on the N11 and approximately a 15 minute walk from the subject site. The subject site is approximately a 15-20 minute walk into the village / neighbourhood centre at Deansgrange. The accessibility characteristics of the site do not, therefore, conform exactly with the description of intermediate urban locations under the Apartment Guidelines. However, the guidelines are clear that the range of locations described is not exhaustive, and that a local assessment is required that considers other relevant planning factors.
- 12.3.5. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered infill residential development, where increased density is encouraged. The reasonable walking distance of the site to the amenities at Deansgrange and accessibility to urban bus routes also characterise this site as being appropriate for moderately increased density levels. I note that the Planning Authority has also confirmed they are satisfied that higher density development can be absorbed at the location of the site.

12.3.6. Therefore, having carried out my own local assessment of the site characteristics, and particularly in light of the public transport accessibility of the site and the proximity to Deansgrange centre, I am satisfied that the location can be described as an intermediate urban location. In my view, the proposed density is within the acceptable density ranges for the subject site. However, a qualitative assessment is still required of the acceptability of the form of the development with particular consideration of potential impact upon amenity, and I set this out in further detail in sections 12.4, 12.5 and 12.6 below. Overall, given the accessible characteristics of the site, I am satisfied that there is nothing to preclude the proposed density level on the site with reference to the above national guidelines, which promote a qualitative assessment, as set out in this report.

12.3.7. In relation to the most recent use of the site as part of the school, I address policy RES5 of the Development Plan in relation to institutional lands and density in section 12.9 below.

12.4. Height, Scale, Mass and Design

12.4.1. Concerns have been raised regarding the height, scale, mass and design of the proposed development by third parties. The Planning Authority asks that in the event that the Board grants planning permission (contrary to their recommendation) that conditions are attached to modify the height to proposed blocks A1-A4 and B6.

12.4.2. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

- 12.4.3. I note SPPR 1 of the Building Height Guidelines, which states that it is Government policy to support increased building height and density in locations with good public transport accessibility. Section 3 of the guidelines confirm this, stating that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.
- 12.4.4. SPPR 3 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. In this case, the development plan includes a Building Height Strategy that indicates 'a general recommended height of two storeys' for areas of the county not covered by other building height control, for example in the form of a Local Area Plan (LAP). A maximum building height of 3-4 storeys is also noted as being permissible in appropriate locations, with situations where a minor modification up or down in height being considered. The Building Height Strategy then includes a range of 'Upward' and 'Downward' modifiers to help guide building height in relation to site specific circumstances.
- 12.4.5. The proposed development is between 3 and 6 storeys in height and therefore consideration of the modifiers is required. The Planning Authority have indicated that the proposed development is generally acceptable in consideration of the modifiers, with minor height alterations recommended that I address further in this section below. In relation to the upward modifiers, Modifier A relates to the urban design benefits that might arise from a development. In relation to the proposal, it is situated at the edge of the school pitch and would provide some enclosure to that green space, alongside 7,012sqm of new public open space within the site itself. Modifier F relates to the size of the site, being sufficient to set its own context and the subject site is sufficiently large to be considered under that criterion in my view. I am therefore satisfied that these upward modifiers under the plan apply in this instance. With respect to downward modifiers, I consider amenity impact in section 12.5 below and visual impact as part of my wider design considerations in subsequent paragraphs.

- 12.4.6. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I have already described in section 12.3 above, that the site is situated a reasonable walking distance to bus stops, with frequent services available from the N11 approximately a 15 minute walk from the site. As a result, I consider the criteria under section 3.2 and SPPR 1 concerning links to public transport to be satisfied by the site, which is well served by public transport bus routes in my view.
- 12.4.7. The second criterion relates to the character of the area in which the development is located. The subject site is not located in an architectural conservation area or candidate architectural conservation area. There are no Protected Structures located on, or in the vicinity of the subject site and no formally protected views. The predominate character surrounding the site is of 1 and 2 storey residential properties in detached, semi-detached and terrace form. Clonkeen College is also an existing 2 storey post primary school situated to the north and west of the site on Meadow Vale Road. The subject site immediately abuts the boundary for the school's sports pitch and rear garden areas for properties on Monaloe Crescent, Clonkeen Road, Monaloe Park road and Meadow Vale.
- 12.4.8. The proposed development is formed of 3 storey duplex buildings (blocks B1-B6) and 4-6 storey apartment buildings (blocks A1-A4). The Planning Authority recommend that the western end of proposed block B6 be reduced by a storey to a maximum 2 storey height, and that the 6th storey to proposed blocks A1-A4 be reduced in depth across those buildings. The proposed layout of blocks across the site is sensitive in my view, to the existing lower rise properties to the west, south and east. Generally, the proposed 3 storey duplex blocks are situated closest to the boundaries with existing residential dwellings, with the taller (4-6 storey) proposed apartment blocks situated more centrally within the site and closer to the open area for the schools sports pitch. Proposed blocks A2 and A4 are orientated obliquely to the neighbouring boundary, and over 14m away, with transitional height graduating from 4 to 6 storeys away from the nearest existing properties. The arrangement of the blocks across the site along with transitional elements has appropriately reduced the overall visual impact of the blocks in my view.
- 12.4.9. I acknowledge that the proposed development represents a change in scale for the area, however I am mindful of the approach taken in the Building Height Guidelines

which identifies that increased building height has a crucial role to play in addressing the delivery of more compact growth in urban areas. While the existing scale surrounding the site is largely 1 and 2 storey, this is reminiscent of traditional, limited, low-rise building heights (as described in the guidelines) which is limiting the growth and development needs of urban areas in Dún Laoghaire-Rathdown County.

12.4.10. I note the recommended modifications to the heights of proposed blocks A1-A4 and B6 suggested by the Planning Authority. These recommended alterations would not significantly alter the visual impact of the development in my view, with the overall height to the proposed apartment blocks remaining 6 storeys. Increasing the set back of this 6th storey away from the school pitch is not necessary in my view. A greater graduation to the height of proposed block B6 is also unnecessary in my view, as the separation to the neighbouring boundary is over 5m and sufficient for the 3 storey block proposed in my opinion. Overall, I am satisfied that the proposed arrangement of height across the site can be successfully integrated into the area.

12.4.11. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), I note the Landscape and Visual Impact Assessment provided in the application submission, including photomontages. Visual 1 illustrates the extent of change that will result to the current 1 and 2 storey context surrounding the site. It illustrates how the situation of the proposed apartment blocks centrally in the site and away from the boundaries with adjacent residential dwellings will assist in the absorption of this new development into the streetscape. In my view, the trees will have a limited effect in screening the development, which is not a problem in my opinion, as the development itself is visually acceptable. View 3 shows the longer visual appreciation of the proposed development and is representative of an evolving scale in this urban area, well served by public transport and therefore suitable for increased height in my opinion. It also creates a punctuation in the skyline (at a suitable scale) that will assist with wider legibility in the area, where there is currently little in the way of distinguishing features in the skyline. View 4 illustrates how the situation of the proposed 3 storey duplex blocks with varied roof forms, makes for a positive visual addition to the area. At the entrance to the subject site, view 7 is useful to describe an appropriate visual relationship to the school.

12.4.12. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), the proposed design

incorporates height that transitions from 4 to 6 storeys, and varied roof forms that create visual interest and a positive distinctive visual presence in the area. The proposed apartment blocks are arranged with a bay formation across the elevation, with a central vertical brick framed glazed feature highlighting the entrance to each block. Projecting balconies modulate the façade and give a strong residential character to the blocks. The use of brick is appropriate for the area and gives a robust form to the blocks. Fronting the school pitch, the blocks incorporate projecting, angled, aluminium clad windows to provide visual interest without undue overlooking at this end of the site. The proposed duplex blocks have diagonal roof planes in a saw tooth arrangement that is a nod to the existing pitched roof character of the area, in a modern and distinctive approach. The proposed duplexes have an elevational arrangement that is distinct to the proposed apartments, but with the consistent use of brick finish to bring a coherent identity across the proposed development. The proposed creche is situated adjacent to the neighbouring school building. It is also finished in brick with coloured circular windows incorporated into the front elevation to provide interest while preserving internal privacy. The building has a good quality external appearance that is reflective of its use.

12.4.13. The proposed development will provide increased diversification of housing typology in the area which is currently predominately self-contained dwelling houses. The incorporation of apartments on the site will therefore be a positive contribution to the mix of typologies in the area (a 3.2 criterion). Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing, I discuss this in detail below in sections 12.5 and 12.6 of this report. The submission of specific assessments is also referenced in the guidelines and assessments commensurate to the scale of the proposed development have been submitted. I have noted reports throughout my assessment, including Architect's Design Statement, Visual Impact Assessment photomontages, NIS (including consideration of collision risk with wintering birds) and Ecological Impact Assessment (including bat survey).

12.4.14. Overall, and following the above discussion, I consider the proposed height, scale and mass to be acceptable for the site. I have considered in detail, the third party concerns raised regarding the visual impact of the proposed development, and while

I accept that the proposal will be a change to the established context, this is acceptable in my view, given the characteristics of the site as described above, and represents an appropriate evolution of the built environment for the area. As indicated in my assessment above, I consider the proposed development to conform with the relevant local and national planning policy provisions and standards in relation to height, and as such, no material contravention arises with respect to height in my view. I address material contraventions specifically in section 12.9 below.

12.5. Neighbouring Residential Amenity

12.5.1. The representations received raise a number of concerns relating to the potential impact of the proposed development upon the residential amenity of surrounding existing residents. I have provided an appraisal of the visual impact of the proposed development as it relates to visual amenity in section 12.4 of my report above. I consider remaining residential amenity concerns for existing occupiers below. I note that the downward modifiers under the building height strategy in the Development Plan include consideration of amenity impact upon adjacent occupiers.

12.5.2. Daylight, Sunlight and Overshadowing

12.5.3. I note that the criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that '*appropriate and reasonable regard*' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

12.5.4. Section 5 of the BRE guidance notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

12.5.5. The BRE guidelines state that in relation to daylight to existing buildings:

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

12.5.6. The guidelines also states that if a proposed development is taller or closer than this, a 25° line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.

12.5.7. In relation to existing properties that could potentially be impacted, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) to less than 27%, or where this is the case, not more than 0.8 times its former value. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property ‘is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.’ Therefore, the preservation of a minimum VSC of 27% and reductions to no more than 0.8 times the former value, illustrate acceptable daylight conditions to existing properties. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more than one quarter APSH, including at least 5% of APSH in the winter months between 21st September and 21st March, then the room should still receive enough sunlight. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21st March.

12.5.8. The application includes a Daylight and Sunlight Report, this includes analysis in relation to the existing surrounding dwellings at Meadow Vale, Monaloe Park Road, Monaloe Crescent and Clonkeen Road.

12.5.9. Properties that could potentially be impacted in terms of daylight (i.e. the development falls within the 25° line) are identified for analysis. This is an acceptable

approach, as remaining properties are unlikely to have any substantial reduction in diffuse skylight as a result of the proposed development, as detailed in the BRE guidelines and highlighted above. All of the properties identified for analysis will exceed the 27% target VSC described in the guidelines in the post development condition.

12.5.10. In terms of potential impact upon sunlight to existing dwellings windows, the submitted analysis describes those properties assessed in conformity with the guidelines around considerations of proximity and orientation of a proposed development to existing receptors. I am satisfied that no other properties would require analysis in this regard as no significant impact will occur. The results in the submitted report confirm that all analysed existing windows will meet or exceed target APSH levels described in the guidelines and highlighted above.

12.5.11. In relation to overshadowing, the submitted analysis considers potential impact upon all existing rear garden areas and open spaces that adjoin the subject site boundary. All existing rear gardens and the schools sports pitch will continue to receive at least 2 hours of sunlight on 21st March over at least 50% of their area, in the post development condition, satisfying BRE target levels. I note third party comments relating to the detail of the shadow diagrams submitted and concern regarding overshadowing at other times of the year. I am satisfied that the submitted analysis satisfies the BRE guidelines and on this basis, there is no significant impact from the proposed development upon existing areas from overshadowing.

12.5.12. Overall, I am satisfied that the proposed development will not have significant negative impacts upon surrounding existing properties daylight, sunlight or from overshadowing, and consider the proposal compliant with the BRE criteria, Building Height Guidelines and the Development Plan in this regard.

12.5.13. Overlooking (Privacy)

12.5.14. My assessment of the potential for overlooking of adjacent areas considers the location of windows, balconies and terrace areas within the proposed development, to habitable room windows in surrounding residential dwellings. Objections have been received from residents in properties that adjoin boundaries to the development site, with concern that both private garden areas and windows will be overlooked.

Concern is also expressed in relation to overlooking of the school site and its sports pitch area. I consider these matters as part of my assessment below.

- 12.5.15. The Dún Laoghaire Rathdown Development Plan 2016-2022 states in relation to the separation between blocks, that a minimum distance of 22m between opposing windows will normally apply to apartments up to three storey, and in the case of taller blocks, a greater separation distance may be prescribed.
- 12.5.16. Proposed duplex blocks B1, B2 and B3 are all situated a minimum of 11m away from the boundary with rear gardens to existing properties in Meadow Vale. The overall separation to windows in those properties exceeds 22m in all cases. Proposed duplex blocks B4 and B5 are situated a minimum of approximately 12m to the boundary with rear gardens in Meadow Vale, Monaloe Park Road, and Monaloe Crescent, with separation to windows in those existing properties exceeding 22m in all cases. Proposed duplex block B6 is situated approximately 5.4m away from the boundary with properties in Clonkeen Lawns. Windows in the western elevation of block B6 facing these gardens are proposed to be obscure glazed and therefore no overlooking results.
- 12.5.17. I note that the Planning Authority has requested that windows to the western elevation in proposed duplex block B6 be obscure glazed and indicates that an elevation drawing of this end of the block is missing. However, the western end of block B6 is on the elevation drawing for that proposed building as submitted and windows in both side elevations of the block are annotated to be obscure glazed. As such, in my view there to be no issue in this regard.
- 12.5.18. Proposed apartment blocks A2, A3 and A4 are situated on an oblique angle to the boundaries with exiting residential properties. Separation to existing windows exceeds 30m in all cases. Proposed apartment block A1 is separated from the boundary to rear gardens in Meadow Vale by proposed duplex block B4. In any case, separation to the boundary exceeds 30m. There is no potential for overt or undue overlooking of existing properties in my opinion as a result of these blocks.
- 12.5.19. In my opinion, adequate separation distances are demonstrated to all surrounding residential properties and as a result, I am satisfied that the proposed development does not result in unacceptable overlooking and associated adverse impact upon the privacy of adjacent properties.

12.5.20. In relation to overlooking of the school and its sports pitch, the proposed development will have a number of windows that will overlook the sports pitch area in an incidental arrangement. Closest to the boundary with the sports pitch are the proposed bike stores, bin store and residents areas, none of which have windows directly overlooking the school grounds. Windows in proposed apartment blocks A2, A3 and A4 will not directly overlook the school grounds. Windows in the side elevation of proposed duplex block B6 will be obscure glazed, while windows looking north will overlook the sports pitch. Windows and balconies in proposed apartment block A1 will overlook the school ground. Proposed duplex blocks B1, B2 and B3 are located a significant distance away from the school site. Proposed duplex blocks B4 and B5 will not overlook the school grounds.

12.5.21. While overlooking of the school grounds will result from the proposed development, this is not problematic in my view. The school grounds are already overlooked by dwellings on streets surrounding the subject site. It is also not unusual for residential properties to overlook school sites in general, and in my opinion, there is no need for heightened sensitivity in this regard. The school site is currently overlooked, and I do not accept the assertion from third parties that residents of an apartment development would be of greater risk to school pupils, this is not a position that can be factually supported in my view and is subjective. I also note that the overlooking of spaces is often encouraged in order to discourage antisocial behaviour. In relation to future expansion potential of the school, the windows most proximate to the school site are either obscure glazed, angled away from the school or situated over 10m away from the boundary, therefore in my opinion there would be no conflict in this regard. Overall, I am satisfied that the proposed development would not result in negative impact upon the school from overlooking.

12.5.22. Impact upon activities at the school

12.5.23. Concern has been raised by third parties regarding impact upon functions at the school as a result of the proposed development, including the inability to generate income from public use of the sports grounds. I have already addressed the in principle considerations of compatibility of the proposed development with the school in section 12.2 above, in this section I consider impact upon the school in terms of potential amenity impact arising from the proposed development. I consider potential impact during construction separately below. I note that the Planning Authority have

recommended that the application be refused, in part, as result of the impact of the proposed development upon the school, which in their view they consider to be contrary to the zoning for the site to 'protect and/or improve residential amenity'.

12.5.24. It is clear that the disposal of the subject site to a developer is unacceptable to the school community. However, the subject site does not have an institutional land use objective under the Development Plan, it is zoned for residential use and any use associated with the school ceased on the subject site a number of years ago. The characteristics of the site also conform with the principles for compact growth. It also cannot be assumed that resisting the development proposition in this SHD application would mean that the subject site would be returned to the school for use as a sports pitch.

12.5.25. In terms of the nature of the proposed development and how this might affect operations at the school, this would be no different to the agencies previously and currently experienced by the school in relation to existing surrounding residential dwellings in my view. While I acknowledge that there would be a densification in terms of extent of residential use proximate to the boundaries, this would not be unacceptable in my view, with residential and school uses coexisting without issue in general in society. I note representation regarding the right to privacy of teaching staff using the external school grounds, however this is not a recognised right in planning policy or in practice in my view, with use of external public areas by schools a common feature in society, and thereby demonstrating no general requirement for privacy in exterior spaces. In relation to the ability of the school to generate an income from more public use of the sports ground, this is not a material consideration in planning terms.

12.5.26. Overall, accepting that the site is zoned for residential development and that use of the subject site by the school has ceased for a number of years, there is nothing inherent in the design of the proposed development that would generate significant adverse impact upon the amenity of the adjacent school site in my opinion. The Planning Authority has a clear route for the identification of sites for preservation in terms of institutional use, and this is in the form of the INST (institutional lands) objective, which has not been applied to the current site. The site is zoned for residential use and the Planning Authority have categorised the site as 'infill' residential development in their submitted Chief Executive Report. As a result, I am

satisfied that the proposed development, having undertaken a detailed assessment of its form and interaction with the school site, will not adversely impact the amenity of the school site.

12.5.27. Waste management

12.5.28. Concern has been raised by third parties with regard to the proposed waste storage arrangements for the proposed development with the regard to proximity to neighbouring boundaries and the potential for vermin.

12.5.29. The applicant has submitted an Operational Waste Management Plan and bin storage is shown on submitted drawings. There are 8 no. waste storage areas allocated within the proposed apartment blocks to serve apartment units, upper units in the duplex blocks B1 to B4 and the residential facilities. The proposed ground floor duplex units in blocks B1 to B4 and all duplex units in B5 and B6 have individual waste stores located either in their rear garden or in a shielded bin store to the front of the unit. The creche building has its own separate waste store area. None of the proposed waste storage areas are located on the boundary with adjacent residential properties, and only bike store areas are situated in close proximity to the rear gardens of existing neighbouring dwellings.

12.5.30. Waste collection arrangements are described in the submitted plan and are proposed to be the responsibility of, and undertaken by, facilities management for the development. The plan describes the responsibilities of facilities management in relation to waste management, which includes daily inspections.

12.5.31. I am satisfied that the proposed arrangements are acceptable and that there is nothing inherent in the proposed design that would generate amenity concerns with regard to waste storage or collection during operation of the development.

12.5.32. Noise and Security

12.5.33. I note third party concern relating to noise and disturbance generated from use of roof terrace areas in the proposed development, as well as security as a result of the suggested future pedestrian link. It is likely that the general activity associated with people in the area will increase with associated low-level noise as a result. However, this would be in keeping with the residential character of the area and should be an expected consequence arising from the residential zoning of the site. In terms of the

use of roof terrace areas, I have described above the extensive separation between the proposed apartment blocks to existing properties, and this will in my view, provide more than adequate separation in terms of use of roof terrace areas on these blocks, including in relation to any associated noise.

12.5.34. In relation to the indicative future pedestrian / cycle link through to Monaloe Park Road, this does not form part of the proposals in the current application. I note that the Planning Authority have requested that the delivery of this link should be required by condition in the event that the Board determine to grant planning consent and I consider this further below in my transportation section at 12.7 of this report below. In terms of any adverse noise or security amenity impact from this link, this would not be significant in my view. The route would be reflective of general residential connections in the area and is a logical result of the street layout here which encourages future connection into the site. As a result, while this link does not form part of the current proposals, I am satisfied that should it be required by condition, it would not result in adverse amenity impact.

12.5.35. Boundaries

12.5.36. Concern has been raised regarding the low height to boundary treatment to adjacent properties. The proposed development incorporates the retention of all existing boundaries to the rear gardens on Meadow Vale, Monaloe Park Road, Monaloe Crescent and Clonkeen Lawns. New boundary treatment is also proposed in some areas to the rear gardens on Meadow Vale. The new boundary treatment is 2m high to rear gardens and the school sports pitch, and 1.2m high to communal areas. I am therefore satisfied that the proposed boundary treatment is reflective of a standard 2m height generally exhibited between residential gardens and retains existing treatment, thereby preserving existing arrangements which I viewed during my site visit.

12.5.37. Lighting

12.5.38. A Residential Lighting Analysis report and external lighting plans have been submitted with the application, these describe the location and luminance level of exterior lighting to be included as part of the development. Luminance levels are appropriate for a residential area and have been designed to take account of ecological factors such as local bat populations. I am satisfied that there will be no

disturbance to adjacent lands from lighting at the proposed development.

Consideration of ecological impact from the proposed development, including with respect to lighting, is set out in section 12.8 of this report below.

12.5.39. Wind

12.5.40. Concern is raised by third parties that the submitted application does not include a wind assessment. It is not general practice to require the submission of a wind assessment with every SHD application or application for development in general. Only where tall buildings are proposed (i.e. 10 storeys plus) is it likely that wind conditions could be altered substantially and require assessment. This might also be the case where proposed buildings were drastically taller than the existing building height context to the area. For an area where the prevailing height is 1 to 2 storeys, it would not normally be expected that a development of 3 to 6 storeys would significantly alter the existing micro climatic conditions of the area.

12.5.41. I am therefore satisfied that a wind assessment is not necessary for the current application.

12.5.42. Wood pellet chimney

12.5.43. Concern has been raised regarding the impact of the proposed development upon the operation of an existing wood pellet chimney at 114 Meadow Vale and potential for consequential harmful air pollutants. The proposed duplex building block B4 situated closest to 114 Meadow Vale is situated over 11m away from the boundary with that property. There is a single storey bike store situated closer to the boundary, but as I understand it, this will not exceed the height of the existing chimney flue. The erection and operation of these types of wood pellet chimney flues are controlled by building regulations. In my opinion, on the basis of the information before me, I do not perceive any likely conflict between the operation of this chimney flue and the proposed development. The distance between the flue and the proposed apartment block B4 is reflective of standard boundary distances from a planning perspective. The operation of the flue is controlled under separate legislation in the form of Building Regulations.

12.5.44. Construction

12.5.45. Representations have been received regarding the potential for noise, dust, pollution and traffic disruption as a result of construction works on the site. A Construction Environmental Management Plan (CEMP) has been submitted with the application. Measures for the management of noise and suppression of dust are described. Vehicle site access and traffic management is also addressed. A condition can secure these arrangements with the submission of a final CEMP for approval.

12.5.46. In terms of the impact of construction works upon the operations of the school, I note third party concern regarding noise disturbance when pupils are sitting exams. This would not be a legitimate basis upon which to resist development in my view and would in general, fetter the potential delivery of much needed housing across the country if adopted as an approach. It is not uncommon for schools to be located proximate to sites that undergo construction works and this is particularly likely in urban areas suitable for compact growth, such as the subject site, which is zoned for residential development. The mitigation measures described will in my view be adequate to limit construction impact to reasonable levels, which while negative in effect, will be temporary in nature. With the application of such mitigation measures, I am satisfied that potential impact from construction works (including construction transport impacts) will be within acceptable parameters.

12.6. Proposed Residential Standards

12.6.1. In this section of my report, I address the range of applicable standards guiding an appraisal of the quality of proposed accommodation.

12.6.2. Daylight, Sunlight and Overshadowing

12.6.3. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. I also note that the Development Plan in section 8.2.3.1 asks that sunlight/daylight standards be taken into account when assessing development proposals.

12.6.4. A Daylight and Sunlight Report has been submitted with the application and describes the performance of the development against BRE guidelines in relation to daylight and sunlight. BRE guidelines describe ADF targets of 2% for kitchens, 1.5%

to living rooms and 1% to bedrooms. In the proposed development, where kitchens form part of living areas the applicant has applied an ADF of 2% to these areas. The applicant's assessment presents analysis of the lowest floor of accommodation to each block, presenting the results of upper floors where lower level accommodation did not meet BRE target ADF levels. This is an appropriate approach in my view as daylight conditions will generally improve in a building vertically, so if daylight conditions are met at the lower level, it can be assumed upper level units also comply.

12.6.5. The submitted report describes a compliance rate of 93.2% against BRE target levels. All bedrooms in the proposed development comply with the BRE ADF minimum target levels. There are 56no. open plan living / kitchen / dining areas that do not meet the BRE ADF target of 2%, however all of these units have an ADF in excess of 1% and most are in excess of 1.5%. The applicant describes that in order to achieve a 2% ADF to all rooms, the balcony areas would need to be removed. I am familiar with this constraint caused by overhanging balconies reducing daylight and sunlight to rooms below. In my view, the provision of external private amenity in a development should not be overtly curtailed in order to achieve BRE targets relating to daylight and sunlight. The BRE guidelines describe the ways in which balconies and private amenity space might be designed to reduce potential obstructions, most notably by avoiding locating balconies above living rooms below. However, there are other design advantages that result from a 'stacked' balcony layout that require consideration. It is good practice for balconies to be attached to the main living space for a unit, as is the case in the proposed development. The floorplan in the proposed development is then generally a 'stacked' arrangement, with matching room uses reflected vertically through the scheme. This reduces potential conflict occurring, where a resident might be using a living room directly above another resident's bedroom etc. Allowing for the necessary attachment of a private amenity space to the living space in each unit, it is inevitable that the balconies will then be located in a 'stacked' formation and above living rooms – thus reducing the available daylight (and sunlight) to these rooms. The external aesthetic and design of a building is also informed by the arrangement of balconies and a 'stacked' arrangement may be preferable for this reason too. Therefore, in my opinion, the achievement of BRE target ADF levels of over 93% in the scheme whilst

complying with other policy requirements for private amenity space and design considerations, is acceptable. I also note that the effected rooms in proposed apartment blocks A2, A3 and A4 all overlook communal / open space areas which provides added amenity value in terms of a view over green space which is some compensation for lower daylight levels. In this sense, I am satisfied that the criteria under section 3.2 of the Building Height Guidelines is satisfied.

12.6.6. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The submitted report demonstrates that 62% of the proposed units meet the annual target with 77% meeting the winter target. Similar to the consideration of daylight levels above, the location of balconies is highlighted by the applicant as being a key factor in reducing sunlight levels to some of the proposed units, alongside some north facing units.

12.6.7. I am satisfied that the orientation of the proposed blocks has sought to maximise sunlight penetration into the accommodation, with northerly orientations confined to the short elevation face to blocks. I also note that the proposed units with reduced APSH levels will have balconies that achieve greater sunlight levels which provides an amenity in itself. As indicated above, there are other design considerations surrounding the provision of balconies and therefore the reduced sunlight levels to some units is a necessary consequence in my view, and not as a result of poor development design or overdevelopment of the site. The predominance of proposed units will achieve minimum BRE APSH target levels, which in light of the foregoing, is acceptable in my view.

12.6.8. In reaching this conclusion I am mindful that the BRE guidelines state in paragraph 1.6 that:

“The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer.

12.6.9. **And, specifically that:**

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

12.6.10. In relation to overshadowing, the submitted analysis is of communal amenity areas to the proposed apartment blocks and duplexes. This demonstrates that all proposed communal external amenity areas for apartment blocks and duplexes in the proposed development will achieve BRE target levels.

12.6.11. Overall, I am satisfied that the proposed development will experience acceptable daylight, sunlight and overshadowing conditions and that it does accord with criteria described in the BRE guidelines, albeit, in recognition that this guidance is flexible and requires a reasoned judgement to be made on all aspects of design.

12.6.12. Dual Aspect

12.6.13. The Apartment Guidelines state that in SPPR 4 that a minimum of 50% dual aspect apartments is required in suburban or intermediate locations, such as where the subject site is located.

12.6.14. The proposed development of apartments and duplexes has a total dual aspect provision of 50.8% in accordance with the apartment standards minimum requirements. I address specifications under the Development Plan in relation to dual aspect in section 12.9 below.

12.6.15. Private Amenity Space

12.6.16. All units within the proposed development have access to private amenity space in the form of a balcony or terrace and all of these amenity spaces meet minimum space standards described in the apartment guidelines and development plan.

12.6.17. Communal and Public Open Space

12.6.18. Section 8.2.8.2(i) of the Development Plan states an absolute minimum of 10% of the overall site area for all residential developments of 5+ units should be reserved for public open and/or communal space. There is also a requirement of 15-20sqm of public open space per person based on the proposed number of units.

12.6.19. The proposed development includes 7,012sqm of public open space at surface level and 3,663sqm of communal open space in the form of roof terrace areas, complying with development plan minimum requirements.

12.6.20. In relation to the former use of the site as part of the school, policy RES5 requires a minimum of 25% of open space on institutional lands. I address this further in section 12.9 as part of consideration of material contraventions below.

12.6.21. Mix

12.6.22. I note third party concern regarding the mix of units proposed in the development.

SPPR 1 of the Apartment Guidelines states that up to 50% of a proposed development may comprise 1 bedroom units, with no more than 20-25% being studio units. The Development Plan states that a variety of housing types and sizes should be provided.

12.6.23. The proposed development comprises 37.1% 1 beds, 50.1% 2 beds and 12.7% 3 beds, in compliance with SPPR 1. I am also satisfied that the mix of unit sizes and provision of apartment and duplex units will contribute to greater variety in terms of the overall housing mix of the area in accordance with the Development Plan.

12.6.24. Floor Area

12.6.25. SPPR 3 of the Apartment Guidelines sets out the minimum floor area for apartment units. The Development Plan states that National Guidelines for minimum apartment floor area apply in section 8.2.3. Reference is given in the plan to previous National minimum floor space areas, however I am satisfied that the intention of the Development Plan is that National Guidelines for floor area should apply in general, and therefore in my view, the current National standards in this regard would supercede local planning policy.

12.6.26. All units in the proposed development comply with the minimum floorspace areas set out in SPPR 3 and the majority of proposed units also exceed minimum floorspace sizes by 10% in accordance with the Apartment Guidelines.

12.6.27. Number of Apartments to a Core

12.6.28. The proposed development does not exceed 12 apartments per core in accordance with policy standards described in the Apartment Guidelines.

12.6.29. Privacy

12.6.30. I note that the Planning Authority has raised concern regarding overlooking from second floor level units within blocks B1-B4 of the private rear gardens attached to ground floor units within the same block. In my opinion, it is not unusual in urban areas for there to be overlooking of private garden areas, particularly in multi-unit buildings. As such, no amendment is necessary in relation to this matter in my view.

12.6.31. The proposed blocks demonstrate adequate separation between windows and balconies in all cases, and I am satisfied that no undue overlooking would occur between units in the proposed development.

12.7. Traffic and Transport

12.7.1. Traffic Impact

12.7.2. I note third party concern regarding the impact that the proposed development would have upon vehicular congestion in the area and that it would result in a traffic hazard / dangerous traffic conditions. I also note concerns regarding the survey data relied upon in submitted documents with the application.

12.7.3. A Traffic and Transport Assessment has been submitted with the application. This describes the assessment of potential impact of the proposed development upon traffic flows in the area. Specific modelling was undertaken of the following junctions:

- Meadow Vale (North/East/West) / Development Access (junction 1);
- Meadow Vale (North/East/West) / Clonkeen College (SE/SW) (junction 2);
- Clonkeen Road [R827] / Meadow Vale (junction 3).

12.7.4. For each of the junctions assessed, the submitted report describes that effective capacity is demonstrated with negligible queues and delays. All junction approaches are shown to continue operating within effective capacities past the year 2039, and the overall impact of the proposed development is concluded to be negligible with no discernible effect.

12.7.5. In relation to the proposed childcare facility, the submitted report describes that the movements associated with this are largely anticipated to be non-vehicular, as it is intended to serve the proposed development itself, and to a lesser extent surrounding areas. The report considers cumulative impact in part 3.5, and states that there are no permitted nearby developments that would generate significant additional vehicular traffic at the junctions subject to assessment in the report. Therefore, while there may be planning approvals for development in the wider area, movements associated with those developments are not likely to use the primary junctions to be relied upon by the proposed development and therefore cumulative impact would not arise.

12.7.6. Overall, I am satisfied that the submitted Traffic and Transport Assessment is sufficiently comprehensive in order to support my assessment, and I concur with the conclusions reached, that no significant impact will result from the proposed development upon the surrounding traffic network.

12.7.7. DMURS and Road Safety

12.7.8. I note third party concern regarding traffic safety as a consequence of the proposed development. I also note the Planning Authority's Transportation Department comments with respect to DMURS as a result of connections to the site, and I address connectivity separately below.

12.7.9. The applicant has submitted a DMURS compliance statement with the application which confirms that the internal road layout of the proposed development is designed in accordance with the guidance provided in Design Manual for Urban Roads and Streets (DMURS).

12.7.10. A Road Infrastructure Design Report is also submitted which includes an Independent Quality Audit. The design of the proposed development reflects recommendations in the Quality Audit. I note third party concerns regarding the submitted Quality Audit, however I am satisfied that this is sufficient for the scale of development proposed. The submitted document also includes a specific non-motorised user and cycle audit. The recommendations of the audit have been incorporated into the proposed development as submitted, and I am satisfied that the proposed development is acceptable in this regard.

12.7.11. Vehicular Access

12.7.12. I note third party concern regarding the adequacy of proposed vehicular access arrangements. The Planning Authority's Transportation Team also request an additional vehicular access to the site. I address overall connectivity and consideration of pedestrian links separately below.

12.7.13. The proposed vehicular access is from Meadow Vale and situated over 30m to the east of the school entrance. The proposed access has adequate sightlines and does not conflict with the entrance to the school site. While only a single entrance is proposed to the site, this is not unusual for development proposals at the scale of the current application. I note that the Transportation unit of the Planning Authority

request an additional access in the event of road closure, but this is not necessary in my view. In the event of road closure on Meadow Vale, there would be necessary access arrangements for residents only, that would be required for both existing residents and future occupiers of the proposed development. I note third party concern that the school is losing an access as consequence of the proposed development, however it was apparent from my visit to the site, that the access that will be partitioned from the school site into the proposed development scheme is not in current use and is not necessary to support the functionality of the school, therefore I am satisfied with the proposed arrangements in this regard.

12.7.14. Overall, I am satisfied with the proposed vehicular access arrangements for the site.

12.7.15. Connectivity

12.7.16. I note third party concern regarding the potential for a future pedestrian/cycle link into Monaloe Park Road, and I address this in section 12.5 above. I also note the request for a link into the adjacent Texaco petrol garage. In addition, the Planning Authority's Transportation Planning unit have concluded that the development layout is unacceptable with respect to pedestrian and cyclist connectivity into surrounding areas, which it considers to be contrary to DMURS, and they recommend the application be refused on that basis. The Planning Authority's recommendation does not reflect this, however the requested condition from the Transportation unit to include a pedestrian/cycle connection into Monaloe Park Road is incorporated into recommended conditions.

12.7.17. The submitted Traffic and Transport Assessment with the application includes consideration of future permeability links. This states that while the applicant conducted discussions with Texaco, agreement could not be reached as Texaco were not prepared to grant a footpath into their lands. The proposed development has included a clear corridor up to the boundary with the Texaco site in any case, and in the event that future redevelopment proposals came forward on that neighbouring site, connection into the current subject site could be secured. In my opinion, while the incorporation of this pedestrian/cycle link would be beneficial to the subject site accessibility and connectivity, it would be unreasonable to condition the proposed development on the delivery of this link, which is not solely within the developers

control and relies upon agreement with third parties. As such, I am satisfied with the proposed arrangement that facilitates future connection if possible.

12.7.18. In relation to the potential link to Monaloe Park Road, the applicant confirms that they own the land up to the watercourse bounding the road. There is a strip of land between the applicant's land and taken in charge land that would be required to deliver the connection. The applicant states that DLRCC have offered assistance in procuring the title to this strip. The Planning Authority is requesting that this link be conditioned for delivery by the applicant in the event that the Board determine to grant planning consent.

12.7.19. Similar to the Texaco link, the delivery of this connection is not solely within the control of the applicant. However, the same constraints in terms of willingness of landowners does not appear to arise, and the assistance of DLRCC in securing title to lands in order to facilitate delivery, makes the potential link into Monaloe Park Road more feasible. The applicant suggests they would accept DLRCC creating this link, however in my view, it would be more appropriate for the developer to meet the cost of providing this link as it would specifically benefit future occupiers of the proposed development and improve accessibility of the site to high frequency bus services on the N11. As a result, I concur with the Planning Authority that this link should be provided by the developer, where feasible. I have included a condition requiring the same in my recommended order below.

12.7.20. Car Parking

12.7.21. I note third party concern that the quantum of parking included for the proposed development is inadequate and will lead to on street parking in surrounding areas. The Planning Authorities Transportation Planning Section also state that the proposed quantum of car parking is unacceptable and the Planning Authority recommend a condition to increase parking to a ratio of 1:1 per a unit, in the event that the Board determine to grant planning consent.

12.7.22. The proposed development includes 248no. car parking spaces comprising 167no. internal (basement level) car parking spaces for residents, of which 7no. are disabled accessible bays and 20no. are electric charging equipped. 69no. surface external spaces are included for residents, of which 5no. are disabled accessible and 10no. are electric charging equipped. There are also 8no. external surface visitor spaces,

including 2no. are disabled accessible and electric charging equipped. 4no. surface spaces are included for the proposed childcare facility. In addition, 10no. motorcycle parking spaces are included for residents.

12.7.23. The proposed parking amounts to a ratio of 0.82 residential parking spaces per residential unit. The submitted Traffic and Transport Assessment gives reference to the Apartment Guidelines car parking standards for peripheral and/or less accessible urban locations, highlighting that the proposed development does not conform with the guideline of 1 space per a unit set out in the guidelines. Car parking does not form a specific planning policy requirement in the guidelines. However, as described in section 12.3 above, I consider that the proposed development is more reflective of an intermediate urban location as described under the guidelines. Section 4.21 of the guidelines state that for suburban/urban locations served by public transport or close to town centres or employment areas, particularly housing schemes more than 45 dwellings per hectare (as is the case for the current application), a reduced overall car parking standard applies. I note that the Dún Laoghaire-Rathdown Development Plan gives a car parking standard of 1 space per 1 bed unit and 1.5 spaces per 2 bed unit for apartment development. Section 8.2.4.5 specifically states that car parking standards are a '*guide on the number of required off-street parking spaces acceptable.*' The principle objective of the standards is described in the plan to have appropriate consideration of government policy aimed at promoting a modal shift to more sustainable forms of transport. As the standards are expressed as a 'guide', in my opinion they do not outline a minimum requirement.

12.7.24. The proposed development has a net density of 90 units per hectare. The subject site is within a 10 minute walk to bus stops operated by Dublin Bus and Go Ahead Ireland for services no.'s 63/63a and 84/84a. With high frequency routes served by bus stops on the N11 and approximately a 15 minute walk from the subject site. The subject site is approximately a 15-20 minute walk into the village / neighbourhood centre at Deansgrange. As a result, I am satisfied with the proposed parking quantum for the development, and I do not agree with the Planning Authority's recommendation that this be increased. I note third party concern that the reduced car parking provision proposed will result in over spill on street parking in surrounding streets, however I do not consider this to be a likely significant impact in light of the above considerations. However, in the event that the Board determined to accept the

Planning Authority's request in relation to this matter, a condition could be included to require submission of details showing increased parking provision.

12.7.25. I also note that the proposed development incorporates adequate provision for disabled accessible bays and electric charging points, and the proposed parking for the childcare facility does not exceed the maximum standards set out in the Development Plan. A condition can also secure submission of a car parking management plan to describe long-term management and arrangements for car parking allocation and maintenance for residents use only at the site.

12.7.26. Bicycle Parking

12.7.27. In relation to cycle parking, the proposed development incorporates 314no. secure and sheltered long-term bicycle parking spaces for residents. A further 74no. spaces are provided at surface levels in the form of Sheffield stands to serve visitors to the site as well as visitors to the childcare facility.

12.7.28. The Apartment Guidelines give a general minimum standard of 1 cycle storage space per bedroom. This is not a specific planning policy in the guidelines and is expressed as a 'general' approach, it is therefore not a requirement to conform with this standard. Therefore, while the proposed development does not include 1 cycle space per a bedroom, I am satisfied that the proposed development incorporates an appropriate response to cycle parking provision in light of the characteristics of the site, and proposed provision of car and motorcycle parking, which is in accordance with the intention of the guidelines.

12.7.29. I note third party concern regarding a lack of dedicated cycle infrastructure in the area, however the proposed development incorporates an appropriate response to cycle infrastructure commensurate to its scale. The upgrade of cycle networks in the area is a matter for the local authority.

12.7.30. I note third party concern that the cycle parking for the proposed childcare facility does not incorporate space for cargo bikes or bikes with trailers. The Sheffield stands proposed are suitable in my view, as they accommodate the widest range of different bikes. Overall, I am satisfied with the proposed arrangements for cycle storage proximate to the proposed creche.

12.7.31. Public Transport

- 12.7.32. I note third party concern regarding the detail on public transport capacity submitted with the application and an overreliance on the unconsented BusConnects scheme. The Development Plan states in section 8.2.3.1 that in assessing the quality of residential development, the proximity to centres and public transport corridors, existing and proposed, should be taken into account.
- 12.7.33. Section 7.7 of the submitted Traffic and Transport Assessment addresses public transport. This describes the accessibility of the site to bus routes as set out earlier in this section of my report (with reference to car parking provision). A Residential Travel Plan is also submitted with the application and describes further detail on the public transport accessibility of the site, including consideration of future improvements. Under the BusConnects scheme, a new local bus route L26 is proposed to operate at intervals of 30 mins via Clonkeen Road, and a high-frequency spine route E1 and E2 would be operated on the N11 at intervals of 8 mins. Public transport capacity is not specifically addressed in the submitted report.
- 12.7.34. In my opinion, the scale of the proposed development would not be expected to create significant additional strain upon public transport capacity in the area. The Planning Authority have not highlighted any concerns in this regard, and government policy is to promote a shift in commuting practices to public transport as a more sustainable transport mode. I am satisfied that the existing public transport provision in the area has been highlighted and would accommodate the proposed development. In future, in the event that BusConnects is delivered, this would only improve the accessibility of the site to public transport modes.

12.8. Ecology and Trees

- 12.8.1. I note third party objections on the bases of ecological impact. I carry out an Appropriate Assessment of the application and potential effects on Natura 2000 sites in section 13 below. In this section I consider the ecological implications of the proposed application upon the subject site itself.
- 12.8.2. An Ecological Impact Assessment (EclA) has been submitted with the application and includes a bat survey; a tree survey is also submitted. The submitted EclA describes in detail the existing habitats within the subject site, which include BL3 Buildings and artificial surfaces; GA2 Amenity grassland; GS2 Dry meadows and grassy verges; FW4 Drainage ditches; and WL2 Treeline. The proximity of the site to

European sites is outlined in the report, and I address those potential effects in section 13 below. There were no rare or plant species of conservation value noted on the site, and no invasive plant species were recorded.

- 12.8.3. Common frog was not recorded on the site, however due to the drainage ditch bounding the site, their presence cannot be ruled out. No other amphibians / reptiles were recorded. No mammals or signs of mammals of conservation importance were noted on the site.
- 12.8.4. Two bat surveys were carried out on the site, with no evidence of bat roosts found in any of the onsite trees. Foraging activity for soprano pipistrelle (*Pipistrellus pygmaeus*) and a Leisler's bat (*Nyctalus leisleri*) were noted proximate to treeline areas. I note third party concerns regarding the bat survey data submitted, and that this does not follow best practice, is not comprehensive and does not reference the most up to date legislation in relation to bat protection. The submitted EclA includes a Bat Fauna Impact Assessment in Appendix 1. This describes that all onsite trees were inspected for the presence of bats and that no trees on or adjacent to the site, have features that would act as potential roosting areas for bats. The likelihood of bat collision with the proposed buildings is addressed in the report and concluded to be not significant given the solid material finish of proposed blocks providing good acoustic reflection. The approach to lighting the proposed development is also referred to in the report and has been developed to reduce light spill. All relevant legislation in relation to the protection of bats is also acknowledged within the report. I am satisfied that the bat surveys undertaken of the site are comprehensive and that the conclusions reached in terms of potential impact upon bats as a result of the proposed development is a sound basis for my assessment and the Boards determination of the application. Overall, I concur with the conclusions in the report that no significant adverse impact will result to bats.
- 12.8.5. In terms of bird species, the following were recorded in the vicinity of the proposed development site: Curlew (Red Listed), light-bellied Brent geese (Amber Listed), Oystercatcher, Woodpigeon, Wren, Robin, Blackbird, Blue tit, Starling, Great tit, Rook, Song Thrush, Lesser Black-headed Gull (Amber Listed), Herring Gull (Red Listed) and Black-headed Gull (Red Listed). It is noted that a number of these species are of qualifying interests of SPAs in the wider area, and I address this as part of my AA in section 13 below.

- 12.8.6. During construction, the EclA concludes that in relation to designated conservation sites (Natura 2000 European sites), due to the potential for silt laden runoff and pollution to enter the watercourse that bounds the site, mitigation measures are required, and I also address this as part of my AA in section 13 below. No significant impact is identified for terrestrial mammalian species, flora, bat fauna, aquatic biodiversity, or bird fauna with mitigation in place.
- 12.8.7. For bird fauna, the EclA states that due to the presence of wintering birds and breeding birds on the site, construction will result in a loss of foraging habitat for wintering birds and breeding habitat for breeding birds. I note some inconsistency between this statement in the EclA and the conclusions reached in the NIS regarding the presence of wintering birds on the site, however I have carried out a complete assessment on potential impact upon QIs of European sites in section 13 below.
- 12.8.8. In relation to collision risk to birds during the operational phase, the EclA states that as the proposed buildings are comprised of solid materials that would be clearly visible to birds, they do not pose a significant collision risk. However, the overall impact to wintering birds is anticipated to be negative, but not to a significant level, as a result of the presence of buildings and increased human activity reducing the potential for wintering birds to forage in adjacent lands.
- 12.8.9. Mitigation measures are described in the submitted EclA and comprise the implementation of measures in the Construction Environmental Management Plan. The incorporation of standard drainage pollution control measures will also be incorporated during the operational phase. The overall impact upon ecology is concluded in the EclA to be not significant. I note third party concern that the described mitigation is generic, however, as described above, many measures reflect best practice and so therefore some standardisation in approach is to be expected. This does not diminish the effectiveness of the measures described in my view.
- 12.8.10. In relation to impact upon trees, a Tree Survey and associated drawings have been submitted with the application. A total of 23 individual trees, 3 hedges, 1 shrub group and 13 tree groups were assessed as part of the survey fieldwork. Of the individual trees identified, there were 4 category B trees (moderate value), 18 category C (low value) and 1 category U (unsuitable for long term retention). No category A tree (high value) were recorded on the site. The hedges and shrub group were classed as

category C, the 13 groups were classed as 12x category C and 1x category B. Of the total trees on the site, the proposed development will result in the removal of 11 individual trees, 4 groups and 1 shrub group. Mitigation for the loss of these trees is proposed to comprise extensive new tree planting as part of landscaping for the proposed development, as well as transplantation of existing younger trees on the site.

12.8.11. I note third party concern that the submitted EclA contains generic or insufficient information with regard to mitigation, particularly in relation to the prevention of water contamination through the incorporation of SUDs measures. In my opinion, the description of measures is adequate, and as they reflect best practice measures, there will invariably be some standardisation which is an acceptable approach in my view.

12.8.12. I note third party concern regarding the potential development of the school pitch, and this note being addressed in the submitted EclA. Whilst there are indicative illustrations of new pitch provision for the school, those indicative images do not form formal proposals under the current application and therefore do not require assessment as part of potential ecological impact.

12.8.13. In relation to third party concern regarding the potential disturbance of vermin (rats / mice) the submitted EclA does not describe recording these species on the site. In my opinion, the potential disturbance of 'vermin' to any significant level is therefore not a likely consequence of the proposed development, given they were not recorded to any significant degree on the site.

12.8.14. I note third parties state observations of a wider variety of species than indicated in the submitted EclA. In my opinion, while the presence of those other species cannot be ruled out, they are not present in any significant number as they were not recorded in surveys of the site. As such, there would be no significant impact on those other species at a population level and beyond a site level, as a result of the proposed development.

12.8.15. I note third party concern that the EclA (and NIS) do not refer to the phasing of the development, demolition works, attenuation design or watermain connection works. I note that the proposed development description, which is reflected in submitted documents for the application, clearly describes the demolition of the existing St Helen's office building at the entrance to the site in an existing hardstanding area. Page 38 of the submitted EclA refers to the approach to demolition works as part of

proposed mitigation measures. Page 51 also states that no bats were observed emerging from buildings on the site. I am therefore satisfied that the removal of the existing structure on the site has been considered in the EclA. In terms of phasing, this has no consequential effect on the conclusions reached in relation to ecological impact in my view. The proposed development is relatively contained and therefore would not be expected to have numerous phases. In relation to attenuation, reference to standard controls is acceptable in my view and the detailed SUDs design is not therefore required. In relation to the watermain connection works, this will be via networks in the established built up urban residential area surrounding the site and does not require consideration in the EclA in my view.

- 12.8.16. Overall, I am satisfied that the submitted EclA is appropriate to base my assessment and has a level of detail commensurate to the scale of proposed development, on a site situated outside any designated sensitive areas. In my opinion, the impact of the proposed development upon ecology and trees will not be significant.

12.9. Material Contravention

- 12.9.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subjective to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 12.9.2. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.
- 12.9.3. The applicant has submitted a Statement of Material Contravention with the application identifying a number of potential areas that may be considered material

contraventions of the Development Plan. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b) of the Act. I note third party representations that the proposed development would not satisfactorily meet tests under national policy relating to material contraventions of the development plan, as well as suggesting additional matters that equate to material contraventions of the plan, and I set out my assessment of the application in relation to this below.

12.9.4. Height

12.9.5. In relation to height, the proposed development has a maximum height of 6 storeys, which is in excess of recommendations outlined in Appendix 9 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) 'Building Height' that gives a maximum height for residual suburban areas not identified in section 4.7 of 3 to 4 storeys.

12.9.6. I have outlined in detail in section 12.4 and 12.5 above why I consider the proposed height to be acceptable in light of both the upward/downward modifiers in the Development Plan and the criteria set out in section 3.2 of the Building Height Guidelines. The Planning Authority have also stated that upward modifiers apply to the proposal. Therefore, in my opinion, the proposed height is not a material contravention of the Development Plan. (However, in the event that the Board determines to grant planning consent and considers the proposed height to represent a material contravention with respect to height would be justified in my opinion under the following section of the Act:

- 37(2)(b)(iii) the characteristics of the subject site reflect the national planning policy approach in relation to compact growth, as described in the Urban Development and Building Height, Guidelines for Planning Authorities (2018). Specifically, as a result of the sites characteristics, being situated a reasonable walking distance to bus services and the zoned neighbourhood centre area for Deansgrange with access to the range of commercial, social and amenity infrastructure there.)

12.9.7. Car Parking

12.9.8. In terms of the proposed approach to car parking, section 8.2.4.5 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) describes the standards

applicable to the quantum of car parking spaces to be provided, and the proposed development includes less spaces than set out under that standard.

12.9.9. I have set out in section 12.7 above why I do not consider the Development Plan standards to be expressed as a minimum. Section 8.2.4.5 of the plan specifically states that car parking standards are a '*guide on the number of required off-street parking spaces acceptable*.' The principle objective of the standards is described in the plan to have appropriate consideration of government policy aimed at promoting a modal shift to more sustainable forms of transport. As the standards are expressed as a 'guide', in my opinion they do not outline a minimum requirement. Government policy is to promote reduced reliance upon private car transportation where more sustainable modes of transport can support this. The subject site is within a 10 minute walk to the closest bus stops and approximately a 15 minute walk to bus stops serving high frequency services. The subject site is also approximately a 15-20 minute walk into the village / neighbourhood centre at Deansgrange. As a result, I consider the characteristics of the site reflective of the type of area that can support compact growth as promoted in national planning policy, and where reduced car parking can be supported as outlined in the Apartment Guidelines. Therefore, in my opinion, the proposed car parking quantum is not a material contravention. (However, in the event that the Board considered that a material contravention did arise with respect to car parking, this would be justified in my view under the following section of the Act:

- 37(2)(b)(iii) the characteristics of the subject site reflect the national planning policy approach in relation to compact growth, as described in Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and the Sustainable Residential Development in Urban Areas Planning Guidelines 2009. The proposed development is also situated in an immediate area served by public transport with a density of more than 45 dwellings per hectare, in which circumstance the Design Standards for New Apartments, Guidelines for Planning Authorities 2020 state that a reduced overall car parking standard is applicable.)

12.9.10. Dual Aspect

12.9.11. In relation to the portion of dual aspect units in the proposed development, section 8.2.3.3 of the Dún Laoghaire-Rathdown Development Plan (2016-2022) describes a minimum standard for dual aspect apartments at 70%. The proposed development has 50.8% dual aspect units. The Development Plan states that:

“(ii) Dual Aspect - Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/ or innovative design responses are used to maximise natural light.”

12.9.12. In my opinion, this is not expressed as a policy under the plan and the statement within the plan specifically allows for a relaxation of the requirement where adequate natural light and / or innovative design responses are used to maximise natural light. I have assessed the proposed development against the BRE standards for daylight and concluded that natural daylight levels are adequate for the proposed development overall. I set out this assessment in detail in section 12.6 above. The proposed development also complies with the Apartment Guidelines standards in relation to dual aspect units, and this national planning policy approach supersedes conflicting requirements in the Development Plan. In my opinion, a material contravention of this matter does not arise for the aforementioned reasons. (However, should the Board determine that a material contravention does arise with respect to dual aspect provision, this would be justified in my view under the following section of the Act:

- 37(2)(b)(iii) the proposed development complies with SPPR 4 of the Design Standards for New Apartments, Guidelines for Planning Authorities with respect to the proportion of proposed units that have a dual aspect.)

12.9.13. Density

12.9.14. In relation to density, the Dún Laoghaire-Rathdown Development Plan (2016-2022) gives a general density for the county of 35 uph. The plan also states that the density range for development of institutional lands should be an average of 35-50 uph. The proposed development has a density of 90 uph.

12.9.15. Policy RES3: Residential Density of the Development Plan states that the higher densities will be promoted in proposals that ensures a balance between the reasonable protection of existing residential amenities and the established character of the area. Regard is also specified in relation to Government guidelines, including the Sustainable Residential Development in Urban Areas. The text that follows the policy in the plan, goes on to state that:

“...as a general rule the minimum default density for new residential developments in the County... shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to ‘greenfield’ sites or larger ‘A’ zoned areas...” (page 37).

12.9.16. The Development Plan states in section 8.2.3.2 ‘Quantitative Standards’ states that residential density should be determined with reference to Government Guidelines for Sustainable Residential Development, with a general principle to optimise density of development in response to type of site, location and accessibility to public transport.

12.9.17. I have assessed the proposed development and site characteristics against government guidelines in section 12.3 above. In my opinion, the proposed development has a density that is acceptable, in light of the principles of compact growth and the site locational characteristics, proximate to public transport and the neighbourhood centre at Deansgrange. In my opinion, a material contravention of the Development Plan does not result with respect to policy RES3 as a minimum density is not specified. Reference to 35 dwellings per hectare is contained in the text following the policy, and flexibility around that ‘general’ density is specifically outlined.

12.9.18. In relation to the density range for institutional lands, I set out my assessment of whether material contraventions arise with respect to the institutional lands policies under the Development Plan in the subsequent paragraphs.

12.9.19. Overall, I am satisfied that a material contravention with respect of density does not result. (However, should the Board determine that a material contravention does arise with respect to dual aspect provision, this would be justified in my view under the following section of the Act:

- 37(2)(b)(iii) Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can

support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.)

12.9.20. Institutional lands

12.9.21. In relation to institutional lands, I note that the previous Development Plan (2010-2016) included a formal 'INST' objective at the subject lands. This has subsequently been removed under the current Development Plan (2016-2022). It is acknowledged by the applicant however that the previous active use of the lands was institutional in nature and therefore the applicant has highlighted to the Board that a material contravention with respect to policies and objectives in relation to institutional lands may result. The site is currently vacant and not accessible to the general public. The Development Plan states that the Council will endeavour to reserve the use of institutional lands for other institutional uses. Density is specified at 35-50 uph and the proposal is 90 uph, in addition open space provision of 25% could apply for institutional lands, and the development includes 21.14%. Consideration of future provision or expansion of school use is also required for development of institutional lands.

12.9.22. As set out in section 12.2 above, the subject site does not have an INST (institutional lands) objective, and the Planning Authority have not applied the applicable policies or objectives relevant to institutional lands to the proposed development in their submitted Chief Executive Report. In my opinion, the designation of the INST objective over a site is fundamental to the application of policies and objectives under the Development Plan regarding institutional lands and this is supported by the approach taken by the Planning Authority. However, I acknowledge that policy RES5 relates to lands in institutional 'use', specifically educational use.

12.9.23. The objective for INST lands is 'to protect and provide for Institutional Use in open lands'. Which reflects the same reference to 'use' as in policy RES5. Therefore, in my view, it is not necessarily the case that the wording in policy RES5 is intended to apply to any building or site in what might be considered an institutional use, but that the reference to institutional use relates back to the wording of the objective for the INST designation under the plan. The reference to 'use' in the policy wording however does give rise to ambiguity in my view, as to whether the policy applies solely to a sites use or to sites with an INST objective. Institutional uses are not defined under the plan, and if application was to be expanded beyond areas with an INST objective, this could lead to further ambiguity in my view, for those sites / buildings that do not neatly fit the idea of 'institutional' (given this is an undefined term in the plan) particularly in relation to the different kinds of residential uses that might be considered institutional residential uses.

12.9.24. Overall, I do not consider a material contravention to arise with respect to the requirements for development of institutional lands for the reasons outlined above, and specifically due to the lack of any specific institutional objective over the subject site. (However, should the Board determine that a material contravention does arise with respect to institutional lands, this would be justified in my view under the following section of the Act:

- 37(2)(b)(ii) the Development Plan contains conflicting objectives or objectives are not clearly stated in relation to the application of policy RES5: Institutional Lands, and whether this applies to sites in institutional use or to sites with an 'INST' institutional lands objective under the Development Plan.)

12.10. Planning Authority's Reasons for Refusal

12.10.1. The Planning Authority recommended that the application be refused for four reasons and I address each of these reasons here, with reference to the wider assessment set out in my report.

12.10.2. The first reason relates to impact of the proposed development upon the operation of the school which is considered by the Planning Authority to be detrimental, and will constrain the future planning of the school site, impeding the ability to address capacity requirements in future. As a result, the Planning Authority consider the proposed development contrary to Policy SIC8 (Schools) and Section 8.2.12.4

(School Development) of the Dún Laoghaire Rathdown County Development Plan 2016-2022.

12.10.3. I address the compatibility of the proposed development with the school site, including consideration of future expansion in section 12.2 of my report above. Overall, it is my view that the proposed development does not compromise the operational ability or future expansion opportunities for the school. The subject site has not been used by the school for a number of years and in itself. The school has demonstrated operational ability in the intervening period. In my view, it is not necessarily the case, that the rejection of this planning application would lead to the reattachment of the site to the school. The site is zoned for residential development and does not have an institutional objective under the Development Plan. Section 8.2.12.4 and policy SIC8 of the Development Plan also primarily relate to the preservation of lands for new schools or redevelopment of existing school sites, and in that sense are not applicable to the subject site and/or potential impact in terms of expansion of the adjacent school site in my opinion.

12.10.4. The second reason relates to the impact of the proposed development upon the provision and support of sufficient and viable schools, and ongoing operation of the school campus with respect to outdoor amenity and play, undermining the ability of the school to expand in future. On this basis, the Planning Authority consider the proposed development to be contrary to Zoning Objective A of the Dún Laoghaire Rathdown County Development Plan 2016-2022, as it fails to protect and/or improve residential amenity.

12.10.5. In my opinion, neither the Department nor the Planning Authority have clearly outlined what the negative operational impact would be from the proposed development upon the school. The approach taken by the Department and the Planning Authority would appear to relate, in my view, to loss of the subject site for school use. That occurred a number of years ago and the school has demonstrated it can operate in the intervening period. The school retains external area / sports pitch, and there is no certainty of the need for this particular school to be expanded, and to what extent that expansion would be. The Planning Authority intentionally removed the INST (institutional lands) objective under the current development plan and the site is zoned for residential use. I outline in section 12.5 above why I do not consider the proposed development to adversely impact the amenity of the school.

- 12.10.6. Overall, I am satisfied of the compatibility of the proposed development with the school and I do not agree with the Planning Authority's recommended reasons for refusal in relation to this matter.
- 12.10.7. The third reason relates to the submitted NIS, which the Planning Authority considers to be insufficient in terms of scientific evidence, as a result of the lack of evaluation of the importance of the proposed development site for wintering bird KORs (key ornithological receptors). The Planning Authority states that the following should have been provided: A summary of peak and mean number of birds and frequency of visits in relation to desktop data from surrounding sites and evaluation of the site for each KOR; and an assessment of possible changes in land management that has altered the use of the application site by Brent geese and Curlew. As a result, the Planning Authority considers that a balanced assessment has not been provided, and that the NIS lacks a clear, objective, scientific evidence, with a high degree of certainty, that there will be no impact on the conservation objectives of the site. The Planning Authority therefore considers the proposal contrary to Section 4.1.1.2 Appropriate Assessment and Section 4.1.3.2 Policy LHB 20 Habitats Directive of the Dún Laoghaire Rathdown County Development Plan 2016-2022.
- 12.10.8. In my view, the Planning Authority's approach to assessing the NIS is disproportionate to the size of the site, its significance in terms of overall ex-situ feeding area and the significance of any potential negative consequential impact upon Brent geese and Curlew. I have described in detail in section 13 my Appropriate Assessment of the site and the Board is the appropriate body to make determinations in this regard.
- 12.10.9. The fourth reason also relates to the submitted NIS. The Planning Authority conclude that the NIS does not provide detail on how displacement of Brent Geese might occur, and lacks consideration of impact to flight/paths and landings. The Planning Authority specifically requires evidence in relation to the location of other sites including a map, information on what sites Clonkeen College Geese are most likely to use, what the average flock size is at other sites compared to Clonkeen College, whether the other sites are zoned for development, whether other sites are likely to experience change in terms of land use management / mowing, and what the disturbance levels are at other sites compared to the lands at Clonkeen College. The Planning Authority considers that in the absence of this information, it is not possible

to demonstrate that alternative sites offer long-term foraging for Brent Geese, and the NIS does not provide sufficient scientific evidence to support the assessment of construction, operation and cumulative impacts arising from the proposed development on Brent Geese. The Planning Authority therefore conclude that the application is contrary to Section 4.1.1.2 Appropriate Assessment and Section 4.1.3.2 Policy LHB 20 Habitats Directive of the Dún Laoghaire Rathdown County Development Plan 2016-2022.

12.10.10. I address in detail, each specific recommendation that the Planning Authority outlines in this reason for refusal in section 13 below.

12.10.11. Overall, I consider the detail of the NIS sufficient, and commensurate to the size of site and scale of development proposed. My conclusions with respect to Appropriate Assessment are detailed in section 13 below.

12.11. Other Issues

12.11.1. Flood Risk and Water Infrastructure

12.11.2. I note third party submissions relating to flood risk and that flooding occurs on the existing site and that the proposed development could increase risk of flooding elsewhere. The Planning Authority's Drainage team have recommended conditions in relation to the submission of details of SUDs and attenuation proposals in the event that the Board determine to grant planning consent.

12.11.3. I note that the application of Flood Risk Management Guidelines to development proposals forms one of the criteria under section 3.2 of the Building Height Guidelines. The Development Plan also includes objectives relating to flood risk and the incorporation of SUDS.

12.11.4. The applicant has submitted a site specific flood risk assessment as part of the application documents. This identifies the risk of flooding associated with the site, with reference to OPW Flood Maps and historical flood events. The subject site is located in flood zone C where flooding is considered to be low risk. Potential for flooding from tidal, fluvial and pluvial sources are either low or so remote they do not require consideration. Whilst I note third party assertions in relation to previous flood events on the site, this is likely to relate to inadequate drainage in my view. Third parties are concerned that more recent drainage improvements to the subject site

would be removed by the proposed development. However, the proposed development will incorporate an attenuation system that is designed to retain storm water generated on site for the predicted 1-in-100 year extreme storm event, increased by 20% for the predicted effects of climate change. This will represent an improvement upon existing drainage measures on the site and will ensure that the run-off from the subject site does not contribute to off-site flooding. The submitted flood risk assessment also considers potential for groundwater flooding. This explains that the proposed development will incorporate a basement that will be constructed as a water tight box to prevent groundwater intrusion, which will mitigate potential risk to within acceptable limits.

12.11.5. Overall, I am satisfied that the submitted flood risk assessment demonstrates that the proposed development would not expose future occupants to risk of flooding from any sources, including tidal, fluvial, pluvial and ground water; it also would not increase the risk of flooding elsewhere. As a result, I am satisfied that the proposed development is acceptable in terms of flood risk.

12.11.6. In relation to water infrastructure, I note third party submissions relating to existing strain on wastewater / water infrastructure in the area. Irish Water have requested conditions to ensure that a connection agreement is signed with the applicant prior to any works commencing and/or connections to the network. Irish Water state that the applicant has not engaged with Irish Water Diversions and therefore conditions are required to ensure Irish Water requirements and standards are adhered to. In relation to Design Acceptance, Irish Water state that the applicant is responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary necessary to facilitate connections to networks.

12.11.7. In respect of water connections, approximately 60m of new 200mm ID pipe main is required to connect the development site, for which the applicant will be required to obtain any consents/permissions required.

12.11.8. I note that third parties are concerned that Irish Water has not provided a specific statement with respect to the feasibility of development connections, however the detail contained in Irish Water's response clearly outlines what is required to ensure connection, which will require the applicant to seek further consents as necessary. In my opinion, it is evident from the submitted details and from Irish Waters submission,

that connection to both wastewater and water networks can be inferred as being feasible, and Irish Water recommend conditions in this regard. I have included a condition to reflect Irish Waters request in the draft Order below.

12.11.9. Social Infrastructure

12.11.10. I note third party concern regarding the lack of social infrastructure to serve the future occupiers of the proposed development, as well as the impact that the development of the subject site will have upon social infrastructure provision. I address the impact upon the operation of the school separately in sections 12.2 and 12.5 above.

12.11.11. A Social Infrastructure Audit has been submitted with the application. This includes demographic data for the local area and a log of existing social infrastructure provision in the area within a 1km and 2km radius surrounding the site. Childcare, community / cultural, educational / training, faith, healthcare, open space / recreation and retail services are identified within this area surrounding the site. The proposed development also incorporates a childcare facility with capacity for 50 children.

12.11.12. I am satisfied that the report identifies an adequate range and number of social infrastructure provision in an area proximate to the subject site, that can serve future occupiers of the development. Adequate account for childcare provision is also incorporated in light of the size of the proposed development and projected child yield. In terms of educational provision, the audit identifies 16 no. primary schools, 11 no. post-primary schools, 4 no. special education schools and 8 no. third level training facilities. In relation to school capacity, I note detailed comments received from third parties, that outline the specific characteristics of surrounding schools and that there is no capacity within these establishments to serve the current population of the area, regardless of the increased population proposed under this application. However, the applicant has presented data within their submitted Schools Demand Assessment to demonstrate sufficient capacity to cater for the development and the cumulative impact of development in the area. I recognise that the conclusions presented by the applicant are not compatible with third party knowledge regarding the capacity of educational facilities to meet the population demand of the development. However, given the timeframe for the construction, occupation and growth of the child population associated with the development, the capacity of schools in the area would be

expected to change over that period. In any case, this is not a matter within the control of the applicant to resolve, and it is for the education authority to respond to growing educational demand in certain areas. Therefore, I do not foresee a permanent negative effect in this regard. Overall, I am satisfied that the applicant has presented analysis to support their conclusions that capacity exists to cater for the education demands of the development.

12.11.13. While I note that third parties are concerned regarding the loss of the sports pitches to both the school and the wider community, the subject site is zoned for residential development and there is no planning policy framework to require recreational or community use of the site. I also note that the subject site has ceased use as a sports pitch for a number of years prior to the submission of this application. There is clearly a desire from third parties that the Board respond to the morality of the loss of the subject site from the school and as a community asset in terms of recreational use; however, the assessment of this application is confined to a planning policy framework and there is no policy that secures that former use of the site.

12.11.14. Archaeology

12.11.15. The application includes documentation in relation to the potential for archaeological findings on the subject site. This confirms that there are no recorded monuments located in the subject site area and that there is no evidence of architectural heritage on the site. However the location of the site, close to Deansgrange stream, means that archaeological potential cannot be ruled out. It is therefore appropriate for a programme of archaeological test-trenching to be carried out within the proposed development area prior to the commencement of the development. In the event that archaeological features are discovered during the course of the works, preservation in-situ or by record would be progressed, following approval for the National Monuments Service. I concur with the findings of the submitted report and have included a condition in my draft recommended order below to secure mitigation as outlined in the Archaeological Assessment.

12.11.16. Property Values

12.11.17. I note submission of third party representations relating to the impact of the proposed development upon property values in the area. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property

values in the area, and nothing has been submitted to demonstrate that this would be the case.

12.11.18. Energy

12.11.19. An Energy and Sustainability Report is submitted with the application. The proposed development includes passive design measures to reduce energy demand, and low carbon energy sources. All dwellings will be compliant with a Building Energy Rating (BER) of A2/A3. Air Source Heat Pumps will be incorporated as a low energy domestic heating source.

12.11.20. Part V

12.11.21. The applicant has submitted Part V proposals as part of the application documents. 30 no. units are currently identified as forming the Part V housing.

12.11.22. 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. 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.

13.0 **Appropriate Assessment**

13.1. This section of the report considers the likely significant effects of the proposal on European sites. Where likely significant effects cannot be excluded, appropriate assessment is required to assess the likely effects on a European site(s) in view of its conservation objectives, and assesses whether adverse effects on the integrity of the site will or might occur in respect of each of the European site considered to be at risk, and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) including Appropriate Assessment Screening submitted with the application.

13.2. I have had regard to the submissions of third parties in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.

13.3. The Project and Its Characteristics

13.4. See the detailed description of the proposed development in section 3.0 above.

13.5. Likely significant effects on European Sites (Stage I Screening)

13.6. The subject site consists of rough, dry grassland, which has been subject to limited or no mowing. It is situated adjacent to amenity grassland area in use by Clonkeen College as a playing pitch. There is no direct impact on SPA or SCA sites as the subject site is not located within or immediately adjacent to any European Sites. A drainage ditch bounds the subject site and flows into the Kill o' the Grange Stream that is located about 100m east. That stream flows south east and drains into the sea after about 3.5km and approximately 1.5km east of Rockabill to Dalkey Island SAC and 2.8km south of Dalkey Island SPA.

13.7. I have had regard to the submitted Appropriate Assessment screening report, which identifies that while the site is not located directly within any European site, there are a number of European sites sufficiently proximate or linked (indirectly) to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- South Dublin Bay SAC (0210) 2.8km;
- Ballyman Glen SAC (0713) 6.6km;
- Knocksink Wood SAC (0725) 6.9km;
- North Dublin Bay SAC (0206) 8.3km;
- Wicklow Mountains SAC (2122) 8.5km;
- Bray Head SAC (0714) 9km;
- Howth Head SAC (0202) 11.2km;
- Glenasmole Valley SAC (1209) 13.4km;
- Baldoyle Bay SAC (0199) 13.8km;
- Glen of the Downs SAC (0719) 13.9km;
- South Dublin Bay and River Tolka Estuary SPA (4024) 2.8km;
- Dalkey Islands SPA (4172) 4.2km;

- North Bull Island SPA (4006) 8.3km;
- Wicklow Mountains SPA (4040) 8.6km;
- Howth Head Coast SPA (4113) 12.1km;
- Baldoyle Bay SPA (4016) 13.8km.

13.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European 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 Third Parties, and I have also visited the site.

13.9. The qualifying interests of all European sites considered are listed below:

Table 13.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
South Dublin Bay SAC (0210) To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	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]
Rockabill to Dalkey Island SAC (3000) To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]

II species for which the SAC has been selected.	
<p>Ballyman Glen SAC (0713)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>
<p>Knocksink Wood SAC (0725)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>
<p>North Dublin Bay SAC (0206)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p>

	Petalophyllum ralfsii (Petalwort) [1395]
<p>Wicklow Mountains SAC (2122)</p> <p>To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> 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 (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [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 <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
<p>Bray Head SAC (0714)</p> <p>To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
<p>Howth Head SAC (0202)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s)</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>

and/or the Annex II species for which the SAC has been selected.	
<p>Glenasmole Valley SAC (1209)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p>
<p>Baldoyle Bay SAC (0199)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>
<p>Glen of the Downs SAC (0719)</p> <p>To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum.</p>	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (4024)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as</p>	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p>

Special Conservation Interests for this SPA.	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]
Dalkey Island SPA (4172) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]
North Bull Island SPA (4006) To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.	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]

	Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
Wicklow Mountains SPA (4040) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]
Howth Head Coast SPA (4113) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	Kittiwake (<i>Rissa tridactyla</i>) [A188]
Baldoye Bay SPA (4016) To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]

13.10. Table 13.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

13.11. Potential Effects on Designated Sites

13.12. The site has an indirect hydrological connection to the European site at Rockabill to Dalkey Island via the drainage ditch/stream that bounds the subject site. That stream drains into the sea approximately 1.5km east of Rockabill to Dalkey Island SAC and 2.8km south of Dalkey Island SPA. As a result, there is potential for a deterioration of water quality through potential silt laden run-off and other pollutants during the construction and operation of the proposed development, that in the absence of mitigation, could have indirect effect upon the conservation objective for Rockabill to Dalkey Island SAC, by negatively impacting its SCI species, as well as supporting habitats within the Dalkey Island SPA.

13.13. In relation to potential effects on habitats that support SCIs of European Sites, Wintering Bird Survey data is submitted. This identifies the use of lands in the survey area by SCI species associated with South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle Bay SPA. There is therefore an indirect link to these aforementioned European sites as a result of potential disturbance and impacts on feeding resources to SCI species associated with those sites and likely significant effects cannot be ruled out in view of the conservation objectives of the European sites as described in table 13.1 above.

13.14. In-Combination / Cumulative Impacts

13.15. The submitted AA Screening Report also considers the in combination / cumulative effect of plans and projects to European sites, alongside the proposed development. This included consideration of the Dublin City Development Plan 2016-2022, Regional Planning Guidelines for the Greater Dublin Area 2010-2022 and National Biodiversity Action Plan 2017-2021. In terms of development in the area, a list of 14 planning applications is provided as representative of development in the surrounding area. The submitted AA Screening Report concludes that in-combination / cumulative effect with surrounding development cannot be ruled out where an indirect link exists from the subject site to a European Site (as identified above).

13.16. AA Screening Conclusion

13.17. I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the European sites outlined below (associated with impact to species of conservation interest), as a result of the following:

- Potential impact associated with deterioration of water quality through potential silt laden run-off and other pollutants during construction and operation. This potential exists due to the drainage ditch bounding the site that ultimately discharges into the sea about 1.5km east of Rockabill to Dalkey Island SAC, which could also have indirect effect on the SCIs for Dalkey Island SPA.
- Potential impact associated with potential disturbance and displacement of certain ex-situ SCI species South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle Bay SPA during construction and operation, effecting the range, timing and intensity of use of an ex-situ site by SCI species.

13.18. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status. The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects on water quality and disturbance of ex-situ SCI species have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of European Sites. As such, likely effects on Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

13.19. In relation to the remaining SAC and SPA areas considered, taking into consideration the distance between the proposed development site to these designated conservation sites, the lack of direct hydrological pathway or any other pathway or link to these conservation sites, as well as the dilution effect with other effluent and surface runoff, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the conservation objectives of features of interest of South Dublin Bay SAC; Ballyman Glen SAC; Knocksink Wood SAC; North Dublin Bay SAC; Wicklow Mountains SAC; Bray Head SAC; Howth Head SAC; Glensamole

Valley SAC; Baldoyle Bay SAC; Glen of the Downs SAC; Wicklow Mountains SPA; and Howth Head Coast SPA.

13.20. Stage 2 – Appropriate Assessment

13.21. The submitted NIS identifies the potential for deterioration of water quality during construction and operation, which in the absence of mitigation could have an indirect effect upon the conservation objectives for Rockabill to Dalkey Island SAC by negatively impacting SCI species and supporting habitats. This is as the result of a hydrological link from the subject site that drains into the sea approximately 1.5km east of the aforementioned European sites.

13.22. The submitted NIS also includes a Wintering Bird Survey Report 2019/2020 which provides survey data in relation to ex-situ use of the subject site and adjacent lands. The subject site is described in the report as consisting of playing fields formerly associated with Clonkeen College with the management of the grassland on either side of the fencing separating the sites differing from 2019/2020, and the Clonkeen College side being regularly mown, while the proposed development site remained unmown.

13.23. The submitted Wintering Bird Survey Report 2019/2020 acknowledges that the surveys represent a single survey season and it is possible that the number and frequency of inland feeding sites varies from season to season, based on varying factors, including changes to site suitability. The results of the 2019/2020 survey submitted, observed the following SCI species of European sites either flying over or foraging within the survey area (being made up of the subject site and the adjacent Clonkeen College pitch): Brent Goose (*Branta bernicla hrota*); and Curlew (*Numenius arquata*); Oystercatcher (*Haematopus ostralegus*).

13.24. The survey results found that the pitch at Clonkeen College is an inland feeding site for Brent geese, with a peak number of 84 Brent geese observed on 27th December 2019, and subsequent visits made by smaller flocks. Brent geese were not observed landing or foraging with the subject site itself, most likely as a consequence of the unmown condition of the site which is suboptimal for geese. Brent geese were observed flying over the proposed development site on nine survey days between December 2019 and March 2020, with a peak count of 130 birds on 25th January 2020.

- 13.25. Curlew was the most frequently-observed winter wetland bird species in the survey area. The peak count was 83 birds foraging on 16th November 2019. Between October 2019 and February 2020 in excess of 50 birds were observed foraging in the survey area on most survey days. Curlew utilised both the Clonkeen College pitch and the subject site area for foraging. Flocks of Curlew did not tend to fly over the site. Oystercatcher was also observed in the survey area on one occasion in the survey period, with a single bird foraging on the pitch at Clonkeen College.
- 13.26. A further Wintering Bird Survey Report 2020/2021 also describes the above SCIs of European sites either flying over or foraging within the survey area, as well as 5 Black-headed gull and 7 Herring Gull observed foraging/roosting on the subject site itself. A peak flock size of 90 Black-headed gull was observed on 2nd February 2021 flying over the site and 12 Black-headed gull were also observed foraging on the pitch at Clonkeen College. A peak of 240 Brent geese, 61 Curlew and 6 Oystercatcher were observed foraging on the pitch at Clonkeen College in the 2020/2021 survey period. Other species observed flying over the site in the 2020/2021 period include Little Egret, Great Black-backed Gull, Grey Heron, Herring Gull, Lesser Black-backed Gull and Common Gull. Buzzard and Sparrowhawk were also observed travelling over the site but are not relevant species for consideration in this AA.
- 13.27. Light-bellied Brent goose is an SCI species for North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA and Baldoyle Bay SPA. Oystercatcher and Black-headed gull are also SCI species for North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA. Curlew is an SCI species for North Bull Island SPA.
- 13.28. The receiving environments at Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA are described in the submitted Natura Impact Statement (NIS) report with reference to relevant QIs, their conservation objectives, including individual attributes, measures and targets.
- 13.29. The site-specific conservation objectives and qualifying interests / species of conservation interests of the aforementioned European sites are also summarised above in table 13.1. The NIS provides a description of potential effects, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is

then provided. A summary of this assessment is set out for each European site below:

- 13.30. **Rockabill to Dalkey Island SAC:** The proposed development has the potential to cause a deterioration in water quality during construction and operation, potentially affecting reef and harbour porpoise downstream aquatic habitats and supporting habitats for aquatic fauna in the absence of mitigation. Site specific threats, pressures and activities for the SAC area include utility and service lines, shipping lanes, discharges, professional active fishing, noise nuisance, noise pollution, removal of sediments and siltation rate changes, dumping, depositing of dredged deposits.
- 13.31. **South Dublin Bay and River Tolka Estuary SPA:** The proposed development has the potential to result in disturbance and displacement of ex situ SCI species during the construction and operational phases through movement of machinery, personnel, noise, vibration and/or noise associated with domestic dwellings in the absence of mitigation. Pathways for effect were identified in relation to light bellied Brent goose, Oystercatcher and Black-headed gull, with the subject site and/or adjacent pitch for Clonkeen College providing suitable habitat. Site specific threats, pressures and activities for the SPA include roads, motorways, urbanised areas, human urbanisation, industrial and commercial areas, discharges, leisure fishing, bait digging/collection, nautical sports, walking, horse riding and non-motorised vehicles, reclamation of land from sea, estuary or marsh and eutrophication (natural).
- 13.32. **Dalkey Island SPA:** The proposed development has potential to cause deterioration in water quality during construction and operation which could potentially affect the supporting habitats for the following SCIs: Roseate tern, Common tern and Arctic tern. Site specific threats, pressures and activities for the SPA include grazing, urbanised areas, human habitation, nautical sports, walking, horse-riding and non-motorised vehicles.
- 13.33. **North Bull Island SPA:** The proposed development has the potential to result in disturbance and displacement of ex situ SCI species during the construction and operational phases through movement of machinery, personnel, noise, vibration and/or noise associated with domestic dwellings in the absence of mitigation. Pathways for effect were identified in relation to light bellied Brent goose,

Oystercatcher, Black-headed gull and Curlew, with the subject site and/or adjacent pitch for Clonkeen College providing suitable habitat. Site specific threats, pressures and activities for the SPA include roads, motorways, bridge, viaduct, shipping lanes, continuous urbanisation, other patterns of habitation, industrial and commercial areas, discharges, bait digging/collection, nautical sports, walking, horse riding and non-motorised vehicles and golf courses.

- 13.34. **Baldoye Bay SPA:** The proposed development has the potential to result in disturbance and displacement of ex-situ SCI species during the construction and operational phases through movement of machinery, personnel, noise, vibration and/or noise associated with domestic dwellings in the absence of mitigation. Pathways for effect were identified in relation to light bellied Brent goose, with the subject site and/or adjacent pitch for Clonkeen College providing suitable habitat. Site specific threats, pressures and activities for the SPA include fertilisation, roads, motorways, urbanised areas, human habitation, bait digging/collection, hunting, nautical sports, walking, horse riding and non-motorised vehicles, golf course, reclamation of land from sea, estuary or marsh and eutrophication (natural).
- 13.35. During construction, there is potential for silt laden run-off and other pollutants to cause a deterioration in water quality that could result in adverse impacts on QI habitats and species of Rockabill to Dalkey Island SAC and the SCIs of Dalkey Island SPA. This is as a result of a hydrological link from the subject site that drains into the sea approximately 1.5km to the east of those European sites. Mitigation measures are described in section 5 of the submitted NIS, with best practice environmental control measures incorporated into the design of the development. Adherence to best practice guidelines will be undertaken during demolition works, the connection of services and utilities and during material handling and storage. Strategies are also outlined to minimise impact on local flora and fauna during site clearance and construction. Surface water discharge from the site will be managed and controlled for the duration of the construction works. Measures include the management of suspended oils in run-off, prevention of concrete run-off and accidental spills / leaks, alongside monitoring to ensure drains do not become blocked or to identify spills. With the implementation of these mitigation measures, the NIS concludes that there is no potential for adverse impacts on the listed

QIs/SCIs of Rockabill to Dalkey Island SAC/Dalkey Island SPA as a result of water quality deterioration originating from the proposed development.

- 13.36. During the operational phase, drainage has been designed to comply with the Regional Code of Practice Drainage Works, the Greater Dublin Strategic Drainage Study and the Irish Water Code of Practice for Wastewater Infrastructure. As a result, indirect effects upon water quality are not anticipated in the NIS.
- 13.37. In relation to cumulative effects, the NIS states that as measures are proposed to prevent potential for significant effects on water quality that could lead to effects on any SAC or SPA, there is no potential for any cumulative adverse effects on any European Site in respect of water quality.
- 13.38. In relation to potential effects on SCI species at ex-situ sites, the NIS refers to the Winter Bird Survey Report and its findings in relation to collision risk, ex situ habitat loss, disturbance and displacement of SICs. It is concluded that imperceptible negative effects will result from the proposed development upon Black-headed gull, Brent goose, Curlew and Oystercatcher. This is in the form of displacement and barrier effect during construction and operation, direct habitat loss for Curlew (outside of the SPA) and collision risk for Brent geese. No mitigation measures are outlined in the NIS and it is concluded in the NIS that the proposed development will not adversely affect the QIs/SCIs associated with the European Sites identified above. In relation to cumulative effect on bird species, the NIS refers to the conclusions of the Wintering Bird Survey and states that there are no connections identified that could potentially result in additional or cumulative impacts. The findings of the Wintering Bird Survey appended to the NIS are described in more detail below.
- 13.39. In relation to the use of ex-situ sites by Brent geese, no direct habitat loss is anticipated as there were no records of Brent geese on the site. In relation to the potential for displacement of geese from the Clonkeen College pitch, the Wintering Bird Survey describes that there are 139 individual ex-situ terrestrial grassland sites utilised by Brent geese in the wider Dublin area. The Clonkeen College pitch is described as representing 0.02% of this area (although it does not feature in the study of ex-situ sites). The Wintering Bird Survey identifies Klibogget Park as a known inland feeding site for Brent geese and the loss of the pitch at Clonkeen

College would represent approximately 5% of local area lost when considering the combination of these locations. Reference is also made to the Scott Crawley Ltd 2017 study, which established that Brent geese at an inland site in Dublin were from a mixture of SPAs in Dublin. It is also stated that Brent geese are not likely to be dependent on the Clonkeen College pitch as the species isn't solely loyal to any one site and is capable of relocating to a different site, including Kilbogget Park (c.1.5km south-east of the site). The survey also states that as Brent geese do not utilise all available sites in any given winter, if displacement occurred at Clonkeen College, this would not be a loss of scare resource. The survey goes on to states that the numbers recorded at Clonkeen College pitch are below national/international importance thresholds and that no geese were recorded on the development site. In relation to collision risk, the survey states that when presented with an obstacle in the landscape birds take evasive action to avoid collision and therefore significant effects are not predicted.

13.40. In relation to Curlew, the survey states that as the results show that Curlew have stopped using the site, it is likely that the length of grass is responsible and that the subject site no longer offers suitable foraging habitat for Curlew. As a result, no direct or physical habitat loss is anticipated. It is anticipated that construction related activities will displace Curlew from the Clonkeen College Pitch area permanently, however the numbers recorded using the area were below national/international significance thresholds and therefore the survey does not consider this potential displacement to be significant for the population. Similarly, potential displacement during operation as a result of the new housing proximate to the pitch at Clonkeen College is not considered in the survey to be significant for the population.

13.41. In relation to Black-headed gull and Oystercatcher, due to the low number of birds recorded across the two survey periods, there is no potential for adverse effect upon the population identified as a result of the proposed development either during construction or operation.

13.42. I am cognisant of the third-party representations received regarding the use of the site by Brent geese. There is also concern raised by both An Taisce and the Planning Authority regarding the quality of the NIS submitted for the application and the potential impact of the proposed development upon QIs of European sites,

specifically Brent geese and Curlew. The Planning Authority recommend that the application be refused as a result.

13.43. In my opinion, there are matters that might have been addressed in the submitted NIS, particularly in light of the previous use of the site as foraging areas for Brent Geese. I accept third party submission and evidence in relation to the historical use of the site by QIs and it is clear to me that prior to the segregation of the subject site from the wider school pitch area, the site supported greater numbers of Brent Geese than recorded in the submitted survey. I also do not accept the applicant's assertion that the site does not offer feeding ground for Curlew, as the absence of Curlew from the site in the last survey period is not conclusive evidence of this, given that in the previous survey year the site did offer suitable feeding ground. It is also possible that in the event that the site were re-attached to the schools sports pitch and subsequently maintained, it would once again attract greater levels of wintering birds associated with European Sites. I am therefore assessing the subject site as an ex-situ site and I am also cognisant of potential impact upon QIs feeding within the adjacent sports pitch area should the development take place.

13.44. On the basis of a worst case scenario, the development of the subject site would render both its site extent and the adjacent sports pitch area no longer favourable for feeding by QIs of the European sites described above. However, given the size of that overall feeding, or potential feeding area, accounts for less than 1% of the available habitat for brent geese and a similarly small area when considering available inland feeding sites for Curlew, this would not have a significant impact upon the overall distribution or population of these QI species. Therefore, in my opinion the conservation objectives of the SPA areas would not be affected and no adverse effect to the integrity of the European sites would result.

13.45. I note that An Taisce's concern regarding the numbers of Brent geese recorded by residents compared to those recorded in the applicants surveys. As I state above, it would appear evident from submissions on this application that the subject site when forming part of the sports pitches to the school, and as a wider site area, supported greater numbers of SCI species. This has altered with the erection of a fence to separate the two areas and different land management practices. In any case, the fact remains that the site area, even if in consideration of the previous extent as a single land area when forming a part of the sports pitches, contributes little to the

overall ex-situ feeding area for the SCI species requiring consideration. As a result, and even in consideration of the worst-case scenario, with the loss of both the subject site and the adjacent sports pitches, this would represent less than 1% of the total available habitat for Brent goose within the greater Dublin area and a similar small proportion of the total area for Curlew. I also note An Taisce's concern regarding the approach to the assessment of cumulative or in combination effect in the submitted NIS. While I agree that ruling out individual effect does not necessarily rule out potential in combination effect, it is my opinion, that for the current proposal, the insignificance of the site in terms of ex-situ importance is apparent from its small size relative to recorded available habitat in the Greater Dublin area, and the absence of the subject site / Clonkeen College from inclusion in that list of recorded habitats (Enviroguide 2019). The NIS also identifies local alternative inland feeding area at Kilbogget Park, which is formed of 15.3ha and therefore representative of a much larger feeding area locally than the total area under consideration in this AA, and that park is not at risk of being lost.

13.46. I note that the Planning Authority outlines a number of areas where they consider the NIS should have been more comprehensive and I address each of those points below.

13.47. In relation to the evaluation of the importance of the proposed development site for wintering bird KORs (key ornithological receptors), in my opinion, the scientific evidence submitted in the NIS is sufficient and commensurate to the scale of the development and the size of the site in comparison to overall inland feeding area in the Greater Dublin Area. In relation to the location of the other sites in the Dublin area, while a map of the sites is not included in the NIS, it clearly identifies Kilbogget Park and that this alternative proximate inland feeding area is located 1.5km to the south east of the site. This is sufficient in my opinion given the relative size of the subject site in comparison to the alternative feeding area at the park. In relation to which sites the Clonkeen College Brent Geese are most likely to use, again, I am satisfied that the identification of Kilbogget Park is sufficient. In my opinion, it would be disproportionate to require information on the average flock size at other sites compared to Clonkeen College given the small scale of inland feeding area to be potentially lost as a result of the proposed development. I also do not consider information on zoning, land-use / management or disturbance is required. Kilbogget

Park is not zoned for development and management or levels of disturbance in those lands reflect that of any public park.

13.48. In coming to this conclusion, I acknowledge that the applicant might have presented more survey data in relation to the historical use of the site and that data might have been organised differently within the NIS, however I am satisfied that the submitted NIS contains all necessary data to enable an Appropriate Assessment. Taking the NIS as a complete document with appended data, there are no gaps in information that would potentially lead to a different conclusion in my view. I am assessing impact on the basis of a worst case scenario and in recognition of the site and adjacent areas offering potential for ex-situ feeding ground, however in my opinion, the overall impact upon the population of QIs would not be significant as a result of the loss of this area, given its small size and the existence of other, larger, suitable feeding grounds in the area as described in the submitted NIS.

13.49. Overall, I am satisfied with the data presented in the submitted NIS and I concur with the conclusions reached with regard to proposed mitigation measures and the overall potential significance of impact upon the SAC and SPA European sites referred to above.

13.50. AA determination – Conclusion

13.51. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

13.52. Having carried out for a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely adverse effects on the Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA could not be ruled out, due to its hydrological link and potential disturbance of SCI species. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

13.53. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that ex-situ effects are not significant and that subject to mitigation in relation to water quality (which is known to be effective) the proposed development, individually or in combination with other plans or projects would not adversely affect

the integrity of the European sites, Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA, or any other European site, in view of the sites Conservation Objectives.

13.54. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

14.0 Screening for Environmental Impact Assessment

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

14.1.2. 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 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha 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.)

14.1.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

“Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

14.1.4. The proposed development is for 299 residential units in the form of 3 storey duplex blocks and 4-6 storey apartment blocks, as well as a 1 storey 353sqm childcare

facility. The overall site area is 3.3ha and is formed of open grassland formally in use as sports pitches for the adjacent school and on the edge of existing residential estates, not located within a business district. The site is currently zoned for residential use and can be serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). In addition, Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. In relation to habitats or species of conservation significance, the AA set out above, concludes that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.

- 14.1.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 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 submitted EIA Screening Report does not directly address the information under Schedule 7A. Notwithstanding this, it is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect 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 regarding other permitted developments in proximity to the site, and demonstrates 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. I have examined the sub criteria

having regard to Schedule 7A and all other submissions, and I have considered all information which accompanied the application including inter alia:

- EIAR Screening Statement;
- Social Infrastructure Audit;
- Schools Demand Assessment;
- Planning Report;
- Planning Statement of Consistency;
- Material Contravention Statement;
- Policy Response Report;
- DMURS Compliance Statement;
- Traffic and Transport Assessment;
- Residential Travel Plan;
- Building Life Cycle Report;
- Sunlight and Daylight Access Analysis Report;
- Public Lighting Report;
- Energy and Sustainability Statement;
- Environmental Report for Noise and Vibration;
- Construction and Demolition Management Plan;
- Construction Management Plan;
- Natura Impact Statement;
- Landscape and Visual Impact Assessment;
- Asbestos Demolition Survey Report;
- Tree Survey Report;
- Archaeological Assessment;
- Ecological Impact Assessment; and
- Article 299B Statement.

14.1.6. In addition I have taken into account the SEA of the Development Plan. 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 EIA Directive have been taken into account, I would note and have considered that the following assessments / reports have been submitted:

- A Statement in accordance with Article 299B(1)(b)(ii)(II)(c) of the Planning and Development Regulations 2001-2021, which takes into account the following Directives: 92/43/EEC, The Habitats Directive & Bird Directive (Directive 2009/147/EC); 2007/60/EC, Floods Directive; 2002/49/EC, Environmental Noise Directive; 2001/42/EC, SEA Directive; 2008/50/EC, Clean Air for Europe Directive; 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites; and Seveso III Directive (2012/18/EU).
- A NIS (including AA Screening) and Ecological Impact Assessment has been submitted pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) and also responds to requirements arising from the Water Framework Directive (and River Basin Management Plans) and the Urban Wastewater Treatment Directive.
- The Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- An Operational Waste Management Plan and Construction and Demolition Waste Management Plan have been submitted and respond to the requirements under the EC Waste Framework Directive and EC Environmental Noise Directive and EU Ambient Air Quality Directive.

14.1.7. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I

am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

14.1.8. I have completed a screening assessment as set out in Appendix A of this report and recommend to the Board 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 (EIAR) would not therefore be required. The conclusion of this assessment is as follows:

14.1.9. 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' with the associated land use objective '*to protect and-or improve residential amenity*' under the Dún Laoghaire-Rathdown Development Plan where residential is a permitted in principle use, and childcare is an open for consideration use.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(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).

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment, Construction and Environmental Management Plan, The Construction Waste

Management Plan, the Traffic Impact Assessment Report, the Environmental Report for Noise and Vibration, and the Flood Risk Assessment.

14.1.10. 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. I recommend that a screening determination be issued accordingly, confirming that no EIAR is required.

14.1.11. I note third party concern that the application amounts to project splitting and that consideration of the alteration to the sports pitch to an artificial all weather surface, and/or, the works associated with water infrastructure connection, should require consideration and would trigger the need for EIA. In relation to the sports pitch, the alteration of that surface does not form part of the proposed development. In relation to water infrastructure, works to be carried out by Irish Water to expand capacity to meet the requirements of new development, does not form part of the proposed development details in this application and requires separate consideration. Neither of these matters would amount to project splitting in my view.

14.1.12. I also note third party concern regarding the adequacy of the EIA Screening in relation to cumulative impact and that the submitted screening report is based on out of date guidance. My EIA screening assessment is informed by the application documentation as a whole and does not solely rely upon the submitted EIA screening report. I am satisfied that with respect to cumulative impact, that the proposed development relates to residentially zoned lands and that the development of other residentially zoned lands in the area has been accounted for under the Development Plan which was subject to its own SEA. There are no anticipated significant cumulative impacts anticipated with respect to surrounding development which would not have already been accounted for under the Development Plan.

15.0 Conclusion

15.1. The proposed development is for residential apartment and duplex blocks on lands zoned for residential use. While the subject site formally formed part of sports pitches for the adjacent school, this use ceased a number of years ago. The school has demonstrated operational ability in the intervening period. While I have given

significant consideration to the concerns highlighted by the Department of Education and the Planning Authority, these do not outweigh the applicable planning policy over the site in my view, which is zoned for residential development and lacks a specific INST (institutional lands) objective under the Development Plan. I have assessed the compatibility of the proposed development details with the adjacent school site and found there to be no significant adverse amenity impact. In my opinion, there is also nothing inherent about the design of the proposed development that would prevent future expansion of the school. Policy SIC8 and section 8.2.12.4 of the Development Plan primarily relate to the preservation of lands for new school sites or redevelopment of school sites, and in that sense, are not applicable to the current application in my view. Therefore, on balance, I am satisfied that the proposed development would not adversely impact the operational functionality of the school, or its future expansion ability in some form.

- 15.2. In relation to potential effect upon European sites, I have given significant consideration to the concerns raised by An Taisce and the Planning Authority. I have also carried out an Appropriate Assessment and considered the consequential effect as a result of loss of ex-situ feeding area both on the subject site and the adjacent Clonkeen College sports pitch. I am satisfied that this would not result in adverse effect to the special conservation interests or integrity of any European sites and their qualifying interest species, particularly Brent geese and Curlew. The subject site contributes marginally to the overall inland ex-situ feeding areas for these species, and its loss, alongside the potential loss of the sports pitches, would amount for less than 1% of the recorded ex-situ sites for Brent geese.
- 15.2.1. I am also satisfied that the development would not have any unacceptable adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at an unacceptable risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 15.3. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

16.0 Recommended Order

Planning and development Acts 2000 to 2019

Planning Authority: Fingal County Council

- 16.1. 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 4th Day of June by GLL PRS Holdco Limited care of McCutcheon Halley, Kreston House, Arran Court, Arran Quay, Dublin 7.

Proposed Development

- 16.2. The proposed development consists of:

- A total of 299 no. residential units and 1 no. 353sqm childcare facility with dedicated play area of 231sqm.
- Including 60 no. duplex units arranged in 6 no. three storey blocks (formed of 18x ground floor 3 no. bedroom, with 18x upper 2 no. bedroom; and 12x ground floor 2 no. bedroom, with 12x upper 3 no. bedroom units).
- Including 239 no. apartment units (formed of 111x 1 no. bedroom, 120x 2 no. bedroom and 8x 3 no. bedroom apartments).
- Apartment blocks are arranged in 4 no. 6 storey blocks over 1 no. storey basement.
- Public open space, communal open space and private open space (including all balconies, terraces and individual unit gardens at all levels).
- 641sqm communal residents' facilities including concierge and welcome area (195sqm), residents' flexible work facility (219sqm), residents' lounge (100sqm) and residents' gym area (100sqm).
- The development will also provide for the demolition of 2 no. storey office building (St Helen's, Meadow Vale – 470sqm) to facilitate new vehicular, pedestrian and cyclist access to the site, to the north of the proposed development via Meadow Vale.
- The development will also include the provision of 2 no. dedicated play areas; internal roads and pathways; and bin stores.

- 248 no. car parking spaces, including 167 no. at basement level and 2 no. shared vehicle (GoCar) spaces, 388 no. bicycle parking spaces, and 10 no. motorcycle parking spaces at basement and surface level.
- Hard and soft landscaping; plant; boundary treatments including the repair and replacement of some existing boundary treatments.
- The provision of new surface water and foul drainage pipes and any required pipe diversion works or build over works; and internal foul pumping station.
- A new internal access road and paths; changes in level; services provision and related pipework, ducting and cabling; electric vehicle charging points; 4 no. stormwater attenuation tanks; 1 no. ESB substation; photovoltaic panels; SUDS including green roof provision; and signage.
- Provision for future pedestrian access to Monaloe Park to the east of the development, including the provision of a pedestrian bridge, extending over the drainage ditch.
- Public lighting and all site development and excavation works above and below ground.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

17.0 Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in the established urban area of Dún Laoghaire Rathdown in an area zoned for residential (under 'Objective A' with the associated land use objective '*to protect and-or improve residential amenity*');
- (b) the policies and objectives of the Dún Laoghaire Rathdown Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – A New Housing Plan for Ireland;
- (d) 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;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) The nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- (i) The pattern of existing and permitted development in the area;
- (j) The planning history of the area;
- (k) The submitted NIS and potential effect upon European sites;
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority and specifically the recommended reasons for refusal; and

(o) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be appropriate in context of surrounding uses and would otherwise 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.

Appropriate Assessment: Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have an adverse effect on any European Site in view of the conservation objectives of such sites, other than Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA, which are European sites where the likelihood of adverse effects could not be ruled out.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, Dalkey Islands SPA, North Bull Island SPA and Baldoyle Bay SPA, in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on water quality and ex-situ feeding areas,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

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' with the associated land use objective '*to protect and-or improve residential amenity*' under the Dún Laoghaire-

Rathdown Development Plan where residential is a permitted in principle use, and childcare is an open for consideration use.

- (c) The pattern of development in surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (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).
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment, Construction and Environmental Management Plan, The Construction Waste Management Plan, the Traffic Impact Assessment Report, the Environmental Report for Noise and Vibration, and the Flood Risk Assessment.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

Having regard to the zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council Development Plan 2016-2022, the pattern of existing development in the immediate vicinity of the site, the NIS submitted with the application and subsequent Appropriate Assessment in the Inspectors Report, the infill site location a reasonable walking distance to bus services and Deansgrange

centre, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

18.0 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

3. The mitigation measures contained in the Ecological Impact Assessment which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

4. The proposed development shall be amended as follows:

Details of a pedestrian and cycle link though to Monaloe Park Road to be

provided as part of the development and accessible to the public. The link is to be delivered by the developer prior to occupation of the approved units, unless the applicant can demonstrate to the satisfaction of the Planning Authority that this is not feasible in relation to landownership;

Reason: In the interests of residential amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards

outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. The development shall not be commenced above grade until details of a Stage 2 Quality Audit have been approved by the Planning Authority.

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

8. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

9. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

10. The construction of the development shall be managed in accordance with a 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 provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;
- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- g) Measures to obviate queuing of construction traffic on the adjoining road network;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed

for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

12. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees / shrubs / hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

13. 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.

14. 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.

15. Public lighting shall be provided in accordance with a scheme, which shall include details of any light spill into open spaces on the site, 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 designed in accordance with guidance contained in the Institution of Lighting Professionals (ILP) (2018) Guidance Note 08/18 Bats and artificial lighting in the UK. The approved lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

16. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development. All works are to be carried out in accordance with Irish Water Standards codes and practices, including in relation to separation distances and restrictions on the building up over assets.

Reason: In the interest of public health.

17. 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 Stage 2 - Detailed Design Stage Storm Water Audit.

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.

18. 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.

19. The public open space areas shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the revised landscape scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

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

20. Proposals for an estate name and numbering scheme with associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

21. 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.

22. 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.

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

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

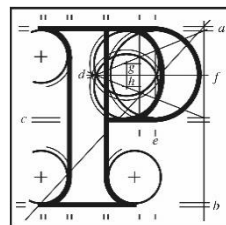
24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

19.0 Appendix A: EIA Screening Table



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference	ABP-311329-21
Development Summary	299 no. apartments / duplexes, creche and associated site works.

	Yes / No / N/A	

1. Has an AA screening report or NIS been submitted?	Yes	An EIAR Screening Statement and NIS was 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	
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	Yes	SEA undertaken in respect of the Dún Laoghaire Rathdown Council Development Plan 2016-2022. An NIS and Ecological Impact Assessment under the habitats directive. A Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive. An Operational Waste Management Plan and Construction and Demolition Waste Management Plan have been submitted and respond to the requirements under the EC Waste Framework Directive and EC Environmental Noise Directive and EU Ambient Air Quality Directive. A statement was also submitted in accordance with Article 299B(1)(b)(ii)(II)(c) of the Planning and Development Regulations 2001-2021, which takes into account the following Directives: 92/43/EEC, The Habitats Directive & Bird Directive (Directive 2009/147/EC); 2007/60/EC, Floods Directive; 2002/49/EC, Environmental

Noise Directive; 2001/42/EC, SEA Directive; 200B/50/EC, Clean Air for Europe Directive; 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites; and Seveso III Directive (2012/18/EU).

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The residential use proposed and the size and design of the proposed development would not be unusual for the area in Dún Laoghaire Rathdown. While the height of the proposed duplexes is 3 storeys and the apartment blocks is 4-6 storeys, and therefore above the established context in the immediate	No

		surroundings, the scale is commensurate to other developments in the wider County area and is not exceptional, relative to the established urban context.	
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The site is currently undeveloped; however it is designated for residential development and no physical alteration is proposed to watercourses. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated at the edge of an existing residential estate.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such development. While the development will result in the loss of open grassland area, this is not on a significant scale at either national or county level. The proposed landscape works also incorporate mitigation measures through landscape planting.	No

1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	<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>	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	<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>Construction waste will be managed via a Construction Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	No

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Yes	Risk of contamination of the water network during both construction and operational phases has been identified and adequately addressed in the submitted NIS. Mitigation measures are described and will be incorporated through implementation of a Construction Environmental Management Plan to prevent pollutants entering the hydrological network.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction and Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction and Environmental Management Plan to include traffic movements, would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	No

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the scale of the development, its situation on the edge of an existing built up area and the surrounding pattern of land uses.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	This is a stand-alone development, comprising renewal of a site. The Dún Laoghaire Rathdown Development Plan 2016-2022 plans for the expansion of the county and has been subject to SEA. This application and those developments in the vicinity are catered for in the plan through land use zoning. Other developments in the wider area alongside the proposed development, are not considered to give rise to significant cumulative effects.	No

2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ol 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 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 	Yes	The subject site has hydrological links to Rockabill to Dalkey Island SAC and Dalkey Islands SPA, North Bull Island SPA as well as indirect link to QI species for South Dublin Bay and River Tolka Estuary SPA, Baldoyle Bay SPA. An NIS is submitted with the application and identifies potential impacts. There is no potential for the proposed development to impact the integrity of the SAC and SPA areas. Incorporation of mitigation measures during the construction and operational phase will prevent potential pollutants entering the hydrological network, and disturbance of QIs will not be significant and would not effect the integrity of the European sites.	No
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?	Yes	The existing site is undeveloped. Existing habitats have been surveyed in the submitted Ecological Impact Assessment and NIS. Potential loss of ex-situ feeding area for European sites may result from the proposed development, however as the site and adjacent pitches represent less than 1% of the overall inland feeding area for Brent geese and Curlew, no	No

		adverse effect would result to the integrity of the European sites.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	There is no evidence or record of archaeology on the site. As it is undeveloped, potential exists for discovery of previously unrecorded archaeology, as such a condition to require recording in such an event can account for unforeseen findings.	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 subject site was formally used as sports pitches for the school to the north of the site. The site is situated adjacent to the post primary school Clonkeen College and residential estates. A drainage ditch / stream bounds the site and the proposed development does not alter this watercourse. Mitigation is included to prevent potential discharge of pollutants into the stream.	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?	Yes	A drainage ditch / stream bounds the site and the proposed development does not alter this watercourse. The development will implement SUDS measures to control surface water run-off. The site has no recorded history of flooding and mitigation measures are to be implemented to manage flood risk as set out in the submitted Flood Risk Assessment.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.	No
2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is accessed from residential streets. A Transport and Traffic Assessment has been submitted with the application and describes capacity on surrounding networks for the development, which will not significantly increase traffic on vehicular routes. Implementation of a Construction and Environmental Management Plan will mitigate traffic impacts during construction stage. While the N11 is situated in the wider area, it is not immediately proximate	No

		to the site and will not be impacted by the proposed development.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	The subject site is situated immediately adjacent to sports pitches for Clonkeen College and formally formed part of the grounds for that post primary school. The proposed development is on lands which have been segregated from the school in recent years, and the school has maintained operations in that time. The site is zoned for residential use and the school is bounded and overlooked by residential dwellings in the current condition. The proposed development will reflect established relationships between the school and surrounding uses in the area.	No

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	Developments have been identified in the vicinity, however these are all of a scale and nature that would be anticipated under the Dún Laoghaire Development Plan 2016-2022 and would not give rise to significant cumulative environmental effects alongside this development.	No

3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No

C. CONCLUSION

No real likelihood of significant effects on the environment.	Yes	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' with the associated land use objective '*to protect and-or improve residential amenity*' under the Dún Laoghaire-Rathdown Development Plan where residential is a permitted in principle use, and childcare is an open for consideration use.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(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).

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment, Construction and Environmental Management Plan, The Construction Waste Management Plan, the Traffic Impact Assessment Report, the Environmental Report for Noise and Vibration, and the Flood Risk 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.

Rachel Gleave O'Connor
Planning Inspector

17th December 2021