



An  
Bord  
Pleanála

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

## Inspector's Report ABP-311411-21

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### Strategic Housing Development

Demolition of existing Baker's Corner Public House, construction of replacement Public House, 276 no. student bedspace accommodation and associated site works.

### Location

Baker's Corner, Rochestown Avenue and Kill Avenue, Dun Laoghaire, Co. Dublin.

### Planning Authority

Dun Laoghaire-Rathdown County Council

### Applicant

Baker Forge Properties Limited

**Prescribed Bodies**

Irish Water  
An Taisce  
Inland Fisheries Ireland  
TII

**Observers**

Alastair Hunter  
Ashbury Nursing Home  
Bakers Corner Community  
Barry Gaster  
Bernadette Gills  
Union of Students in Ireland  
Ciara and Jonathan Leggge  
Colette Curtin  
Colm O'Donovan  
Cornelia Legge  
Daniel Harkins  
Donal and Teresa Simmons  
Eamonn Hudson  
Elaine Sheehy and Colin Polykett  
Emer O'Connor  
Eoin Hicks Smyth on behalf IADT  
Students' Union  
Grangewood Residents Association  
Jacqui Verdon  
John and Marian O'Friel  
John Keane  
Kieron McGovern  
Melvyn and Mary McCambridge  
Michael and Patricia Roddy

Michael O'Connor  
Nuala O'Dowd  
Patrick Hastings  
Patrick Judge  
Rachel Twomey  
Richard Boyd Barrett  
Ron and Bernadette Dunne  
Rosemarie Murray  
Sarah Jane Bell  
Séamus Ó Caoimh  
Stephen Bowles  
Susan King  
Teresa and Michael Bruder  
Teresa Zille  
Tom Mullett

**Date of Site Inspection**

9<sup>th</sup> December 2021

**Inspector**

Rónán O'Connor

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1.1. The site is located at Baker's Corner, at the junction of Rochestown Avenue and Kill Avenue. The site includes the Bakers Corner Public House & Off Licence and the surface car park to the rear, but excludes The Forge building (mixed use with residential). To the north east is the single storey Holy Family Community Centre. To the east is the Holy Family Church and its carpark. An area of open space adjoins the Holy Family Church along the south-eastern boundary of the site. To the south is the former Garda Station off which is accessed off Rochestown Avenue. IADT (Institute of Art, Design & Technology) is located to the southeast, c. 5minute walk via Kill Avenue.
- 2.1.2. There is a right of way and wayleave running west to east along the southern boundary linking Rochestown Avenue to the Holy Family Church.

## 3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed student accommodation development shall provide for 276no. bedspaces with associated facilities, a public house, 2no. commercial units and ESB Substation. The development will include the following:
  - (a) Demolition of existing Bakers Corner Public House approximately 1,378sqm
  - (b) Construction of a replacement public house of approximately 292.4sqm at the Kill Avenue Frontage with adjoining ESB substation (14.4sqm) and switch room (7sqm)
  - (c) Construction of a student accommodation development with an overall gross floor area of approx. 8,677 sqm (internal) in two blocks of 5 to 6 storeys (Bakers Corner Building – Building A) and 4 to 6 storeys (Main Student Accommodation Building – Building B). The development will provide for a total of 276 student bed spaces

grouped into 38 no. clusters of six, seven and eight bedrooms with associated kitchen/dining/living areas

(d) Ancillary student support facilities are also proposed at ground floor level of the main student accommodation building (Building B), including: a common room/reception (169.2sqm), management office (16.2sqm), administration space (21.3sqm), Post/Comms area (15.4sqm) meeting room (41.6 sqm), store (18.6 sqm), canteen (22.5 sqm), Toilets and Shower Room (38.9 sqm), laundry (27.3 sqm), cinema room (43 sqm), gym (28.3 sqm), and break out space (45 sqm); and at fifth floor level 2no. communal lounges (27.5 sqm and 46.8 sqm(including Kitchenette)); totalling approx. 843.1 sqm.

(e) New Public/Urban Square with pedestrian routes, public seating, landscaped spaces and outdoor seating associated with commercial uses;

(f) The provision of communal lounges (12.2sqm each) on floors 1 to 4 of the Bakers Corner Building (Building A).

(g) The provision of 2no. commercial units (approx. 127.5 sqm and 273.3sqm) at the ground floor level fronting Rochestown Avenue in the Student Accommodation Building ("Building B") and the Bakers Corner Building ("Building A") respectively.

(h) The realignment of the existing car parking spaces to provide 34 no. car parking spaces (including 3 no. Accessible car parking spaces), 1 no. loading bay and 330 no. bicycle parking spaces at surface level and in secure stacked cycle parking store.

(i) Waste management area (24.8sqm) and plant room (60.9sqm) at ground floor level.

(j) Alterations to the existing vehicular and pedestrian entrances from Rochestown Avenue including the provision of a formalised pedestrian route, and the creation of a new pedestrian and cyclist entrance via Kill Avenue.

(k) Associated site and infrastructural works including the provision for water services, foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works including the provision of 3 no. roof terraces at fifth floor level (approx. 451 sqm, 150sqm and 60sqm sqm respectively);

green roofs (97sqm and 142sqm), boundary treatments, electrical services and all associated site works

### Key Figures

Site Area	0.483 Ha
No. of student bedspaces	278 no. student bedspaces in 38 no. clusters of 6 to 8 bedrooms with shared kitchen/living/dining areas
Total floorspace residential development	8677 sq. m
Height	4 to 6 storeys
Communal Open Space	Roof Terraces: Block A: 150 sq. m and 60 sq. m. Block B: 451 sq. m.
Part V	None
Vehicular Access	From Rochestown Avenue
Car Parking	34 no. car parking spaces
Bicycle Parking	330 no. cycle spaces
Student Support Facilities	889.9 sq. m
Other uses	2 no. commercial units: Block A unit 273.3 sq. m Block B unit 127.5 sq. m. Public House (Block A): 292.4 sq. m

### Mix

Type	No. of units	% of units
6 bed cluster	3	8%

7 bed cluster	22	58%
8 bed cluster	13	34%

## 4.0 Planning History

### Site

PA Reg. Ref. D19A/0582 refers to a grant of permission for a material change of use comprising c.93.6sq.m from office accommodation to dental surgery and all associated works at unit 5, The Forge, Baker's Corner.

PA Reg. Ref. D04A/0672 refers to a grant of permission for alterations to previously approved two storey mixed retail commercial and residential development, D03A/1185, to provide for change of use of previously approved attic space to 1 no. office unit

PA Reg. Ref. D03A/1185 refers to a grant of permission for alterations to previously approved two storey, mixed retail, commercial and residential development (D98A/0910) to provide for: a) reconfiguration of previously approved ground floor retail units 1&2, b) to provide a bookmakers shop, c) provision of ATM at ground floor level, d) change of use of previously approved attic space to provide 1 no. office unit, e) provision of 3 no. satellite dishes and 2 no. condenser units at roof level and f) associated elevational alterations. The proposed change of use to office was omitted by condition. A ridge height not to exceed 9.175m as approved under (D98A/0910) was also conditioned.

PA Reg. Ref. D02A/1604 refers to a grant of permission for alterations to previously approved 2 storey mixed retail, commercial and residential development (D98A/0910) to provide for: a) reconfiguration of previously approved ground floor retail units to provide 1 no. betting office, b) provision of ATM to front of retail unit no. 4, c) reconfiguration of 4 no. previously approved first floor apartments, including re-location of access stairs and d) associated elevation alterations.

PA Reg. Ref D98A/0910 refers to a grant of permission for the demolition of houses, including former 'Smithie' and construction of a two storey mixed development



containing 2 No. offices and 4 no. maisonettes (4 no. 2 bed apartments) at first floor level and 4 no. retail units at ground floor level and ancillary works.

## 5.0 Section 5 Pre Application Consultation

5.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 19<sup>th</sup> October 2021 in respect of the following development:

- 202 no. student accommodation bedspaces and associated site works.

5.1.2. I note that the current submission differs from the pre-application submission in that the existing public house is now proposed to be demolished with a new public house use proposed on the site as well as an increase in the number of units on the site, as well as other amendments.

5.1.3. In the Notice of Pre-Application Consultation Opinion dated 29<sup>th</sup> October 2020 (ABP Ref. ABP-307311-20) the Board stated that it was of the opinion that the documentation submitted required **further consideration and amendment** to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

5.1.4. The prospective applicant was notified that the following issues needed to be addressed prior to submitting an application:

### Design and Layout

5.1.5. Further consideration and/or justification of the documents as they relate to the development strategy for the site in respect of the proposed height, scale and massing of the proposal, having regard to its locational context.

(a) This should include a contextual layout plan which indicates the layout of adjoining developments, photomontages and cross sections at appropriate levels, including details of how the proposed development interfaces with contiguous uses/lands (within and outside the applicant's landholding) and adjoining roads.

(b) In addition to the consideration of other national policy and guidelines, particular regard should be had to demonstrating that the proposal satisfies the criteria set out inter alia in section 3.2 and SPPR3 of the Urban Development and Building Heights, Guidelines for Planning Authorities

(December 2018). The applicant should satisfy themselves that the design strategy for the site, as outlined in red, provides the optimal outcome for the subject lands.

- (c) The interface with existing uses at Baker's Corner, the interface with the Public Realm at Rochestown Avenue and Kill Avenue, the interface with the Holy Family Church, interface with the Open Space to the south, as they relate to the design and layout of the proposed development and the desire to ensure that the proposal provides a high quality, positive intervention at this prominent location. Particular regard should also be had to creating suitable visual relief in the treatment of elevations and interface with adjacent lands. An architectural report, urban design statement and additional CGIs/visualisations should be submitted with the application, together with a report that specifically addresses proposed materials and finishes to the scheme.
- (d) Extent of surface parking on the eastern portion of the site.
- (e) Furthermore, the layout should address the creation of vibrant, amenable and high-quality communal open spaces within the development.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

#### Potential Impacts on Residential Amenities & adjoining lands

5.1.6. Further consideration/justification of the documents as they relate to potential impacts on residential amenities of adjoining residential properties and impacts on adjoining lands to include:

- (a) Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers of the proposed development, which includes details on the standards achieved within individual rooms within the development, in communal open spaces and in public areas within the development. The impact on adjoining lands and residential properties and uses should also form part of the assessment.
- (b) Visual Impact Assessment to include verified photomontages of the development from Kill Avenue, from the Holy Family Church and from the

south east IADT Campus. The VIA should include views of the development with both winter and summer vegetation and to include any plant or other structures on the roof of the proposed development, in order to give as accurate a representation as possible.

- (c) The development should be designed so as not to have a negative impact on any potential redevelopment of adjoining lands.
- (d) The proposed development should to be designed to avoid direct overlooking of adjacent residential properties.
- (e) The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

#### Transportation & Car Parking

5.1.7. Further consideration and/or justification of the documents as they relate to:

- (a) The provision of safe vehicular, pedestrian and cycle access to the development with regard to DMURS and to the safe provision of accessible car parking and cycle parking, to include consideration of a proposed set down area.
- (b) Provision of a positive contribution to the public realm at Rochestown Avenue to have regard to the Rochestown Road Reservation and improvements.
- (c) Appropriate upgrading and treatment of the pedestrian/cycle route linking Rochestown Avenue to The Holy Family Church along the existing right of way to the south of the site.
- (d) Response to issues raised in the Response to Transportation Planning Report dated 1<sup>st</sup> July 2020 included in Appendix B of the Planning Authority Opinion received by An Bord Pleanála on 10<sup>th</sup> August 2020.
- (e) Justification/rationale for the proposed car parking strategy for the proposed development, having particular regard to the quantum of parking proposed and its context, how it is intended to be assigned and managed and measures proposed to address shared carparking with the adjoining uses.

5.1.8. The applicant was also advised that the following specific information should be submitted with any application for permission:

1. Full and comprehensive details of permissions granted and under construction (if any) and clarity of integration of the proposed SHD application relative to existing permissions (where dependency and integration exists).
2. Housing Quality Assessment, to consider the Department of Education and Science Guidelines on Residential Developments for 3<sup>rd</sup> Level Students Section 50 Finance Act 1999, Policy RES12 and section 8.2.3.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and other relevant guidance on student accommodation.
3. Wind micro-climate study, including analysis of pedestrian areas and amenity areas.
4. A Student Accommodation Management Plan.
5. A draft Mobility Management Plan.
6. A draft Construction Management Plan, draft Construction and Demolition Waste Management Plan and a draft Waste Management Plan.
7. Response to issues raised in the Drainage Planning Report dated 18<sup>th</sup> June 2020 included in Appendix B of the Planning Authority Opinion received by An Bord Pleanála on 10<sup>th</sup> August 2020.
8. Response to issues raised in the Housing Section Report dated 24<sup>th</sup> June 2020 included in the Planning Authority Opinion received by An Bord Pleanála on 10<sup>th</sup> August 2020.
9. Response to Irish Water submission dated 9<sup>th</sup> July 2020.
10. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

## 5.2. Applicant's Statement

- 5.2.1. The application includes a statement of response to the pre-application consultation (Statement of Response to Pre-Application Consultation Opinion), as provided for under section 8(1)(iv) of the Act of 2016 and within this document the applicant has responded to each issue raised in the opinion and to each item of specific information raised in the opinion.

#### **Material Contravention Statement**

- 5.2.2. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dun Laoghaire Rathdown Development Plan 2016-2022 in relation to the matters of (i) Height and (ii) Part V provision.
- 5.2.3. I refer the Board to Section 10.13 of this report which summarises the contents of same and considers the issue of material contravention generally.

### **6.0 Relevant Planning Policy**

- 6.1.1. 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. I also note the Government’s Housing for All Plan which identifies the need to increase housing supply as a critical action.

#### **Project Ireland 2040 - National Planning Framework (2018)**

- 6.1.2. The NPF sets out the Governments’ high level strategic vision for shaping the future growth and development of the country.
- 6.1.3. 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.
- 6.1.4. National Planning Objective 13: In urban areas, planning and related standards, including, in particular, 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.

- 6.1.5. National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- 6.1.6. The NPF states that the demand for student accommodation exacerbates the demand pressures on the available supply of rental accommodation in urban areas. In the years ahead, student accommodation pressures are anticipated to increase. The location of purpose built student accommodation needs to be proximate to the centres of education, as well as being connected to accessible infrastructure such as walking, cycling and public transport. The National Student Accommodation Strategy supports these objectives.

### **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment and the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013). Interim Advice Note- Covid 19 (May 2020).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

Other Relevant Guidance

- DHPCLG Circular PL8/2016 APH 2/2016 (July 2016): Encourages co-operation between local authorities and higher education institutes in the provision of student housing. Indicates that student accommodation should not be used for permanent residency but can be use by other persons/groups during holiday periods.
- Guidelines on Residential Developments for 3rd Level Students - Section 50 Finance Act, Department of Education and Science, 1999
- Matters Arising in Relation to the Guidelines on Residential Developments for 3rd Level Students (Section 50 Finance Act 1999), Department of Education and Science, 2005.
- Report on Student Accommodation: Demand and Supply, Higher Education Authority, 2015

## 5.2 Regional

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

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

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.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin’s sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

#### Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

The Strategy sets out the necessary transport provision, for the period up to 2035, to achieve the above objective for the region, and to deliver the objectives of existing national transport policy, including in particular the mode share target of a maximum of 45% of car-based work commuting established under in “Smarter Travel – A Sustainable Transport Future”.

### **5.3 Local**

#### **Dun Laoghaire Rathdown County Development Plan 2016-2022**

The majority of the site is zoned Objective ‘NC’ which seeks ‘to protect, provide for and/or improve mixed use neighbourhood centre facilities.

A section of the northern and eastern portion of the site is zoned Objective ‘A’ which seeks ‘to protect and or improve residential amenity’.

#### Map based objectives:

A proposed Quality Bus/Bus Priority Route is indicated along Rochestown Avenue/  
An existing bus priority route is indicated running along Kill Lane and Kill Avenue.

An orbital cycle route is indicated running along Kill Lane and Kill Avenue.

The majority of the site lies within the boundary of the Deansgrange Local Area Plan.



A 6 year road proposal is indicated along Rochestown Avenue

6.1.7. Policy RES 3 Residential Density:

*It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development ...*

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

Policy RES7: Overall Housing Mix:

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

Policy 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.*

Section 8.2.8.2 Communal open space. Requirement of 15 sq.m- 20 sq.m. of Open Space per person, based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site.

Policy RET6: Neighbourhood Centres *'It is Council policy to encourage the provision of an appropriate mix, range and type of uses - including retail and retail services - in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.'*

Section 8.2.6 'Retail Development' - Neighbourhood Centres are intended to cater for the daily shopping and service needs of the immediately surrounding

neighbourhood and will consequently be generally small in scale. In dealing with applications in local centres any analysis should take cognizance of changing shopping trends and the social and economic circumstances of the area.

Policy RE15 'Urban Villages' *'in new development growth nodes and in major areas in need of renewal/regeneration it is Council policy to implement a strategy for residential development based on a concept of sustainable urban villages'*.

Policy RES12 Provision of Student Accommodation:

*It is Council policy to facilitate student accommodation on student campuses or in locations which have convenient access to Third Level colleges (particularly by foot, bicycle and high quality and convenient public transport) in a manner compatible with surrounding residential amenities. In considering planning applications for student accommodation the Council will have regard to the 'Guidelines on Residential Developments for Third Level Students' and its July 2005 Review (particularly in relation to location and design).*

Section 8.2.3.4 (vii) refers to student accommodation. The following points are noted:

- All proposals for student accommodation should comply with the Department of Education and Science Guidelines on Residential Development for Third Level Students (1999), the subsequent supplementary document (2005) and the 'Student Accommodation Scheme', Office of Revenue Commissioner (2007) - dealing with matters arising from the Guidelines and providing clarity in relation to definitions of 'students' and 'educational institutions' and recommendations in relation to minimum bed-space and other similar requirements.
- When dealing with planning applications for student accommodation off-campus developments a number of criteria will be taken into account including:
  - The location of student accommodation within the following hierarchy of priority:
    - On Campus
    - Within 1km distance from the boundary of a Third Level Institute
    - Within close proximity to high quality public transport corridors (DART, N11 and Luas), cycle and pedestrian routes and green routes

In all cases such facilities will be resisted in remote locations at a remove from urban areas.

- The potential impact on residential amenities. Full cognisance will be taken of the need to protect existing residential amenities particularly in applications for larger scale student accommodation, and such accommodation will not be permitted where it would have a detrimental effect.
- The level and quality of on-site facilities, including storage facilities, waste management, covered cycle parking and associated showers and locker, leisure facilities, car parking and amenity.
- The architectural quality of the design and also the external layout, with respect to materials, scale, height and relationship to adjacent structures. Internal layouts should take cognisance of the need for flexibility for future possible changes of use.
- The number of existing similar facilities in the area. In assessing a proposal for student accommodation the planning authority will take cognisance of the amount of student accommodation which exists in the locality and will resist the over-concentration of such schemes in any one area in the interests of sustainable development and residential amenity.

**Section 8.2.8.2 'Public / Communal Open Space:** For all developments with a residential component – 5+ units - the requirement of 15sqm 20sqm of Open Space per person shall apply based on the number of residential/housing units... A lower quantity of open space (below 20sqm per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii) below'.

**Section 7.6 of Appendix 2: Student Accommodation:** It is recognised that there is a need to provide student accommodation for students studying both within and outside the County. The Council will support the provision of on-campus student accommodation and may also permit student accommodation off-campus where the proposed development:

- Is located within one pedestrian kilometre from the boundary of a Third Level Institution or proximate to existing or planned public transport corridors, cycle and pedestrian routes and green routes.
- Complies with the Department of Education and Science Guidelines on “Residential Development for Third Level Students”. (Refer also Section 8.2.3.4 (xi) of the Written Statement).

No social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a Third Level Institution. In all other instances of student accommodation the standard 20% social housing requirement will apply.

Policy RES2: Implementation of Interim Housing Strategy (specifically Section 7.6 of same) states *inter alia* that;

‘Specific exemptions to Part V where a reduced social/ affordable element may be acceptable are:

Third level student accommodation of the type that has/or would have otherwise qualified for tax relief under Section 50 of the Finance Act 1999 (Refer also to Policy RES12).’

**Section 3.1 of Appendix 16: Requirements for Various Land Uses:** A Green Roof proposal is a requirement for all roof areas greater than 300 square metres... or alternative “soft” SUDS (Sustainable Drainage Systems)\* measures being proposed...

A Green Roof, where required, shall in all cases cover a minimum of 60% of the Roof area.

The following are also considered to be relevant. Chapter 2: Sustainable Communities, Chapter 5: Physical Infrastructure Strategy Chapter 8: Principles of Development and Appendix 9: Building Height Strategy, Policy UD1: Urban Design Principles, Policy UD2: Design Statements, Policy UD3: Public Realm Design

**Deansgrange Local Area Plan (expired in June 2020).**

**Transportation Improvements** identified are:

County Development Plan:

- Rochestown Avenue Road Improvement Scheme (6 year objective in table 2.2.5).
- Rochestown Avenue is part of the Cherrywood to Blackrock Bus Priority Scheme (table 2.2.3).

#### Bus Connects

- Kill Avenue to identified as a Bus Connects Spine Route (E2).
- Rochestown Avenue is identified as a Bus Connects Spine Route(b4) and Peak Time Route.

#### National Cycle Network:

- NTA proposed National Cycle Network includes Rochestown Avenue as a secondary cycle route 13D and Kill Avenue as a secondary cycle route S06.

## 7.0 Observer Submissions

- 7.1.1. 38 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

#### Principle

- Not opposed to development of the site
- Believe student residence to be an appropriate use
- Balance of uses is at the detriment of the neighbourhood centre zoning
- Within the Draft Plan, site also includes a 'SNI' zoning, with the objective 'To protect, improve and encourage the provision of sustainable neighbourhood facilities; also two specific local objectives which include to seek the retention of the existing streetscape at Baker's Corner/and to retain, strengthen and improve important uses at Baker's Corner, which have a strong neighbourhood function
- The LAP, which has now expired, identified that Baker's Corner is considered to inform the character of the area/also an objective to retain the streetscape and other objectives relevant to the site
- Lack of an end user for the commercial spaces

- Quantum of neighbourhood uses only 7.9%
- Planning Report refers to the existing public house/off licence/this is incorrect.
- Not clear if applicant owns the Forge Building or not/if so, it should be included within the proposed development/proposal amounts to piecemeal development
- There are deficiencies in the statutory notices (no reference to boundary wall being removed/no reference to an off-licence being included)
- Inconsistencies in the site area
- Church Hall is included in the site in the Planning Report/This is not included in the Site Location Plan
- Negative impact on amenity amounts to a material contravention of the Development Plan, as relates to the residential zoning
- Will lead to an overconcentration of student accommodation/shortfall of other tenure types
- Student Demand and Concentration Assessment Report does not show all the existing and permitted student accommodation schemes in the area.
- Mix of student and other tenure type would be more appropriate for the site
- May change from student to apartments
- Overconcentration of student accommodation
- There is a high demand for student accommodation in the DLR area which needs to be addressed/proposed development does not meet this demand due to its expected affordability/Surveys show low preference for facilities such as on-site gyms
- Material contravention of Development Plan as relates to height and Part V
- Entrance to the public house will be from within the development/will not be an amenity for locals
- If site is sold it would set the precedent for another future planning application
- Ownership of the land in the lane way is under question

- Proposed is not consistent with the NC zoning of the site/not consistent with the A Zoning of the site - proposed development will have a negative impact on surrounding amenity
- Development is 8 times more dense than a traditional housing development
- DLRCC Dev Plan has a residential default density of 35 units/ha
- Greater mix of uses/tenure needed
- Does not have any meaningful type of community amenity/contravenes zoning objective
- Commercial use is not a use class – therefore the application is invalid
- Proposed commercial use is neither permissible nor open for consideration under the CDP/material contravention of the zoning/Board is precluded from granting permission
- Various different uses are referred to in the application documentation
- Neither of the two units comply with the definition of a corner shop
- SHD legislation is deeply flawed/lack of democracy/does not take into consideration the normal planning process, local Development Plans or the wishes of the community.

Design including height/Visual Impact/Conservation/Archaeology

- Proposed 6/7 storey blocks are out of scale with the existing context
- Elevations are misleading
- View from Kill Avenue is dominated by blank facades
- Overdevelopment of the site
- Poor quality of the urban square
- Will engulf the existing buildings on site
- Negative impact on visual amenity
- Reference to the Urban Square is misleading/poor quality/is a circulation space for vehicles)

- Dwellings on Rochestown Avenue not shown on the elevation drawings/plans- cannot view the scheme in context with existing dwellings
- Height of block overlooking community building is excessive and should be reduced in height by at least 2 storeys
- Need for graduations in height between blocks and adjoining dwellings
- Height is excessive/in particular the block overlooking the nursing home
- Layout is poor
- Design is monolithic
- Height, bulk and massing are excessive/does not integrate with the character of the area/unacceptable visual impact
- Negative impact on Protected Structures in the area/on community and heritage buildings
- Will be views towards the development from houses in The Grange including No.'s 25 and 26
- Not a high rise location/urban centre
- Building B needs to be completely redesigned
- Should be reduced by at least 2 storeys
- Will be overbearing
- Ignores the 4 storey limit Development Plan has for this area
- Visual impact
- Is directly opposite Fairholme, a Protected Structure/scale and bulk of the development could be overpowering
- Buildings should be stepped back/provide parking underground/would provide more green space at ground level
- Will be situated on the highest point in the area/would tower over the entire area
- The removal of the amenities would allow for a reduced height/other amenities within biking distance



- Architecture not in keeping with the neighbourhood
- Proposed site has been in use as a public house since the 1830s/nearby Kill Abbey dates back to 1595/ruins of St. Fintan's Church dates back to 10<sup>th</sup> century/clearly an area of high archaeological interest/archaeological study must be conducted
- Height and density exceed stipulations in the Development Plan
- No images from or towards Grangewood have been provided
- Potential archaeology on the site/ No archaeological study has been provided

#### Residential Amenity/Surrounding Amenity

- Will have a negative impact on the nursing home at construction and operational stage.
- Not all windows of the nursing home were assessed
- No consultation with the nursing home
- No contiguous elevations/sections showing relationship with nursing home
- Inadequate separation distances from the proposed development to the nursing home
- Impact on daylight and sunlight to the nursing home/negative impact indicated in the report
- No assessment of the amenity spaces of the nursing home
- Noise impacts
- Block B will overlook the rear of properties on Rochestown Avenue and Grangewood
- Church grounds will be impacted/negative impact on church services/noise pollution
- Will lead to overlooking
- Surrounding green spaces will be utilised by students will negative impacts on amenity
- Will result in overshadowing of residential gardens/surrounding amenity spaces

- Does not show all windows of surrounding properties including 19 Rochestown Avenue
- Properties in Greenwood not assessed in the daylight/sunlight analysis
- Impact of proposed summertime use
- Impact on privacy of residents of the nursing home
- Daylight/sunlight impacts
- Anti-social behaviour
- Noise pollution
- Lack of separation distance from existing residents
- Overlooks neighbouring residential properties
- Daylight Analysis has omitted windows/is misleading
- Roof terrace would have views directly into neighbouring bedrooms/would be even more intrusive with a lowering of height
- No reassurance that the roof terraces will be managed
- No noise assessment submitted
- Will overlook church
- Too many unknowns in relation to the management of the terraces/how they will be used.
- Should be a planning condition that they cannot be used after 10.
- Noise from rooftop parties
- No indication developer has experience of managing student residences
- No reception or security proposed for Building A/will make this building more vulnerable to breaches of the accommodation rules
- Daylight/Sunlight Impacts
- Loss of existing public amenities
- Negative impact on existing businesses due to loss of parking

### Residential Standards

- Development relies on provision of rooftop terraces in order to satisfy both the public and communal open space requirements
- Green space was originally set out for the residents of Grangewood/applicant wishes to use this space for his development
- Insufficient amenity space
- Lack of adequate public open space
- Size of the proposed clusters seems excessive

### Transport

- Recently erected barrier that stops parking out of hours on the site
- No provision of parking for the existing/retained uses adjacent to the site
- Lack of car parking
- No breakdown of the parking allocation is set out.
- Will lead to overspill parking
- Road safety concerns
- Unrealistic that students will not own cars
- Difficult to assess if parking requirements have been met/end users of commercial units not specified
- Proposed scheme is reliant on the bus/not near a Luas or DART line
- Residents already experience overspill parking
- Parking assessment took place during the Covid Related Lockdown/data is not accurate
- No car parking/impact of overspill car parking
- Will cause traffic congestion/already huge traffic congestion in the area
- Bus services already under pressure/capacity of same
- Loss of existing car parking

- Census figures in relation to trips made by private car include 5-17 age group/should be excluded/data from UCD refers to a proportion of 20% of students using a private car
- Previous scheme included a quantum of 54 parking spaces to serve the 202 student bedspaces
- Traffic impacts during construction
- 'Review of Parking Provision' document uses standards from the Draft Plan/these are different from the current Plan which requires higher parking/an additional 30 spaces would be required if the current plan was used

#### Ecology/EIA/AA

- Inconsistencies in terms of tree removal
- One bat survey is not adequate
- Ecological fieldwork and bat survey only carried out 2 months prior to lodgement of the application

Tree survey appears to have been undertaken after the proposals were well advanced

- Question accuracy of tree survey/all subsequent reports may be reliant on inaccurate baseline data
- Contrary to policies related to biodiversity (LHB19; LHB23; LHB 24)
- Refer to a recent Judgement as relates to EIA Screening (Waltham Abbey Residents Association v An Bord Pleanála)
- Right of way issues/removal of trees
- Impact on the Kill-Of-The-Grange Stream/already listed 'at risk'

#### Site Services/Flooding

- Drainage issues in the area
- Flooding issues after periods of heavy rain

#### Other

- Materials are inappropriate/aluminium has a high embodied carbon value/maintenance of proposed render
- Negative impact on property values
- Applicant is required to provide Part V housing/ Student accommodation is not on a school campus and should therefore be required to contain social and affordable housing/ Material contravention of Part V of the Social and Affordable Housing Act
- Cycle stands and landscape planting along right of way
- Impact on existing right of way along the southern boundary of the site from Rochestown Avenue to the Church Grounds
- Concerned in relation to the use of the accommodation during the holiday periods
- Lack of engagement by the applicant with student representatives
- Location of this development may result in its use by students at UCD or further afield
- Public health risk of objects falling from the development
- Units may be used for AirBnB
- Fire Risk associated with the development
- Impact on broadband provision and other existing infrastructure
- Insufficient provisions for waste management

## 8.0 Planning Authority Submission

- 8.1.1. Dun Laoghaire Rathdown County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. I have summarised this submission below.

### Principle of Development

- Zoning of the site noted – c80% of the lands are zoned NC/c20% of the lands zoned A
- Residential is permitted in principle

- Public House and 2 commercial units comprise 693 sq. m/Overall GFA of the student accommodation is 8677 sq. m./(gross floor area is 7950.74 sq. m)
- Pub and commercial units comprise 8.7% of the proposed development
- Quantum of residential use is a concern/limited quantum of commercial use on NC lands is a concern.
- Principle of a public house acceptable/significant reduction in floor area is noted/reduction in overall floor area is not desirable
- Exact use of the commercial units has not been specified/cannot determine if the principle of same is acceptable/commercial uses in the NC zone would generally be considered acceptable.
- Loss of a local landmark
- Not listed on the RPS/not located within an ACA or candidate ACA
- Established built form of the pub/serves as a landmark in the local streetscape
- Note content of the Archaeological Heritage Impact Assessment
- Having regard to the content of same, considered the demolition of the public house may be acceptable/in the context of any replacement building being acceptable in design terms, and in terms of achieving the land use zoning objective for the site.
- Having regard to the quantum of each use proposed, there are concerns that the proposed development does not achieve the NC zoning objective
- Quantum of residential use, in the context of the limited commercial and other uses on these 'NC' zoned lands, is excessive as a proportion of the overall development, and is not considered acceptable in this instance.
- The proposed design of the buildings represents an abrupt transition in scale relative to the receiving environment/would be contrary to the objective of Section 8.3.2 'Transitional Zonal Areas' of the CDP 2016-2022.
- Principle of development is consistent with the Core Strategy/Government policy/Satisfies the requirement of Policy RES12/principle acceptable at this

location subject to compliance with a range of criteria, including an improvement in the balance of the residential-commercial ratio on site.

- Location of development satisfies criteria set out in Section 8.2.3.4 (xii) of the CDP

#### Density

- Indicative proposed density of approximately 281 units/ha would indicate overdevelopment of the site.

#### Site Layout

- Note differences from the pre-app submission from the application submitted including the more extensive site boundary and the proposed demolition of the public house.
- Noted that the existing mixed use commercial development (The Forge) will be retained.
- PA has significant concerns in relation to the proposed layout/particularly the 2 no. blocks proposed and the adverse visual and residential amenity concerns arising from same.
- Blocks would appear visually obtrusive in the context of the site/would fail to integrate with the existing development within the vicinity of the site/would read as visually dominant from all approaches to the subject site.
- Would be overbearing from adjoining and adjacent sites
- Proximity to established developments/adverse residential impacts from proximity to existing residential developments
- Submission does not justify scale, mass and height of the proposed development
- Would result in overbearing, overshadowing and overlooking impacts
- There is an inadequate level of open space at ground floor level, unacceptable open spaces at roof level and unsatisfactory parking and circulation proposals to serve existing and proposed development
- Absence of appropriate soft landscaping proposals

#### Building Height

- Site is situated in a residual suburban area not included within the boundaries of the cumulative control areas identified in Section 4.7 of Appendix 9 of the Building Height Strategy
- Proposal fails to provide functional open space at ground floor level and removes the majority of car parking on the site/Proposal is not considered to benefit the legibility, appearance or character of the area – therefore Upward Modifier (a) is not applicable
- Does not contain any significant improvements to the public realm/improved transport infrastructure/not considered to satisfy requirements of Upward Modifier (b)
- Fails to accord with Upward Modifier (d)
- Site is not within an area with exceptional public transport/proposed development does not satisfy Upward Modifier (e)
- No upward modifiers are applicable to this case.
- Development materially contravenes CDP/Building Height Strategy
- Downward modifier No. 1 is applicable in this case.
- Development is contrary to Appendix 9 of the Development Plan
- Proposed development, by reason of its height and abrupt transition in scale, would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment and existing established pattern of development in the subject site
- Would not accord with the principles of Policy UD1 of the Development Plan
- In relation to the Building Height Guidelines, it is considered the site is suitable for accommodating some additional building height by providing compact urban growth
- Considered policy contain within Development Plans are robust and generally align with the objectives of the National Planning Framework and the Building Height Guidelines
- Subject site is not located within an urban area/site is suburban



- Applying the criteria in Section 3.2 – site is not well served by public transport/site is not located in an architecturally sensitive area/development is overbearing by reason of the scale, height, bulk and siting/results in adverse impacts including overbearing, overshadowing and overlooking impacts/does not have due regard to the character of the area/would be visually dominant/abrupt transition in height
- Proposed scheme improves the right of way from Rochestown Avenue to the church grounds/does little to integrate otherwise with existing developments/would not make a positive contribution to the improvement of legibility through the site or wider urban area.
- Proposal would contribute to the existing educational use
- Concludes that the proposal should be refused planning permission (see Section 8.1.2 below).
- Conditions are recommended should ABP be minded to grant/recommend the 4<sup>th</sup> and 5<sup>th</sup> floors of each building be omitted/would result in the loss of 30 bedspaces in Block A (4 no. units) and 50 bedspaces in Block B (7 no. units)/amendments to general layout also suggested including open space at ground floor/reduction in the roof terrace area/revised parking proposals
- Suggested modifications would ensure the proposed development would comply with the Building Height Strategy

#### Standard of Accommodation

- Type and mix of units is acceptable
- Proposed kitchen/bed sizes accord with the DES guidelines
- Inclusion of service areas should not be included in the calculation of student facilities
- Considered a reasonable standard subject to the an absolute minimum of 10% of the site area being allocated to open space in accordance with the CDP
- Concerns in relation to the reliance of the development on roof terraces to provide for open space to serve future occupants/impacts on the residential amenities as a result of terraces (noise)

- Concerns remain in relation to the low Average Daylight Factor results in the proposed new building
- Impacts on daylight to the proposed nursing home
- Report does not accurately reflect the fenestration of 19 Rochestown Avenue/all windows on the rear of the property will result in loss of light
- Development would have a major impact on the occupants of the Forge
- Submitted report does not reference the proposed windows styles including the framing, projecting angled oriels, louvres and fins proposed/what impact, if any, they have on daylight to the interior of the proposed blocks.
- Have concerns in relation to the daylight/sunlight afforded to the proposed development, and the adverse impacts of the proposed development on surrounding properties and sites.
- No noise modelling carried out/Noise assessment is required to assess the potential noise levels during and post construction.
- Noise impacts from plant works.
- No mitigation in relation to noise impacts from the terraces is proposed/proximity of the nursing home is noted/further information is required in the form of a baseline noise survey.
- Cycle Parking
- Proposed cycle storage area not acceptable/recommend condition

#### Open Space and Landscaping

- Proposed amenity space at ground level is overstated/proposed urban square is not considered to make any meaningful contribution towards usable amenity space/this is an area for vehicles associated with the proposed public house, 2 no. commercial units, the existing Forge commercial units and deliveries
- Green corridor represents residual strips which fail to provide any meaningful open space area for future occupants
- Concerns in relation to the width of the proposed right of way
- Fails to provide any quantum of functional open space

- Proposed ground floor amenity area would experience significant overshadowing throughout the year
- The existing open space to the southeast of the subject site is part of the Grangewood residential area/does not form part of the subject site/use of same to serve the occupants of the proposed development is not favourably considered

#### Proposed Design

- Provides an active street frontage
- Insufficient details in relation to public lighting proposals/would require to be addressed by condition
- Proposed materials and finishes are generally acceptable/provide a high quality contemporary finish
- Finishes should be reconsidered following the submission of a revised design proposal of a significantly smaller scale

#### Access/Transportation/Public Realm (See also internal report)

- Concern in relation to the level of car parking proposed
- Refer to the car parking standard for Colleges of Higher Education/Universities and Hostel Accommodation – 1 space per 15 student/bed spaces
- There is no provision for staff or visitor parking
- PA shares the concerns of local residents that the proposal would lead to car parking overspill on the surrounding residential area, church grounds and public roads where there are no car parking controls in place
- Car parking requirement of 108 no. spaces/may require basement or undercroft/would require significant redesign of the proposal.
- PA are not satisfied the proposal provides for a high quality interface with the public realm/concerns in relation to the quality of the boundary treatment.

#### Impacts on Residential and Visual Amenity

- Block A is overbearing and results in adverse residential impacts

- Block B also reads as domineering and overbearing also/large roof terrace will lead to amenity impacts
- Decrease in height to 4 storeys along the frontage to Rochestown Avenue is noted and generally welcomed/4 storey element is considered to be an appropriate scale and mass for the subject site.
- PA recommend that the upper 2 floors of the proposed blocks are removed
- Development would overlook adjacent sites
- Revised fenestration pattern/omission of fourth and fifth floors of the blocks would mitigate overlooking impact/removal of terraces would overcome noise concerns
- Reduction of same would have a positive impact on the integration of the development into the host area

#### Water Services and Flood Risk

- See summary of internal report from Drainage Planning below.

#### Construction/Waste Management

- See summary of internal report from Environmental Planning below.

#### Part V

- It is the Council's position that student accommodation provided 'off-campus' is subject to Part V obligations.
- Condition recommended.

#### Archaeology

- Condition recommended.

#### Other Issues

- Management arrangements are not clear.
- No monitoring of the terraces has been set out/should be conditioned/24 site security should be provided.

8.1.2. Section 16 of the Planning Authority's submission sets out a recommendation. The Planning Authority recommends that permission is **REFUSED** for the following 4 no reasons:

1. Having regard to the suburban location and character of the area, Appendix 9 Building Height Strategy of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities (2018); it is considered that the proposed development, by reason of its overall scale, height, massing and built form, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposed development is considered to be contrary to Section 8.3.2 Transitional Zonal Areas, Policy UD1 and Appendix 9 (Building Height Strategy) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would appear visually overbearing and obtrusive and would thereby materially contravene the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.
2. The application site is located on lands which are zoned land use zoning objectives 'NC' and 'A' in the Dun Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development, by reason of the excessive quantum of residential accommodation proposed relative to the quantum of commercial and other uses proposed, is considered to represent an unbalanced and disproportionate use of lands within a neighbourhood centre, which if permitted would be seriously injurious to the Neighbourhood Centre zoning objective and the retail hierarchy. The proposed development would thereby be contrary to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its overall scale, massing, built form and its proximity to adjoining site boundaries, would adversely impact on the amenities of existing adjacent properties by way of overlooking, and would be visually overbearing when viewed from existing adjacent properties. The proposed development would give rise to adverse overlooking and daylight impacts on adjoining residential properties and would significantly impact on these properties in this regard. Accordingly, the proposed development would be contrary to the provisions of the Dun Laoghaire Rathdown County Development

Plan 2016-2022 and to the proper planning and sustainable development of the area.

4. Having regard to the intermediate urban location of the site, it is considered that the proposed development, by reason of the inadequate number of car parking spaces and bicycle spaces proposed to serve the future occupants and visitors to the development, may result in car parking overspill on surrounding residential roads. The proposed development would, therefore, seriously injure the amenities of properties in the vicinity and, as such, would be contrary to the Dun Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

8.1.3. Section 17 sets out conditions in the event ABP are minded to grant planning permission. Those of particular note are as follows:

- Condition No. 2 – Omission of 4<sup>th</sup> and 5<sup>th</sup> floors of Blocks A and B/provision of amenity space at ground level/modifications to the proposed roof terraces including reduction in area and noise/light management/revised landscaping including measures to prevent overlooking.
- Condition No. 3 – Specific use of the proposed retail/commercial units shall be agreed.
- Condition No. 9 (i) relating to road reservation line co-ordinates/building line and front boundary treatment details to facilitate road improvement works (iv) requirement for 414 cycle parking space (v) amended cycle parking arrangements (vi) provision for E Bikes/Cargo bikes (vii) car parking survey (viii) additional 18 no car parking spaces for the student development/car parking management measures (x) noise assessment
- Condition 17 – Part V

### **Internal Reports**

Drainage Planning – note the applicant's attenuation system is undersized/has also used reduced run-off rates which have not been agreed with the PA/have not provided site investigations results to support the chose Soil Type/Conditions are recommended in relation to surface water drainage/Conclusions of the Site Specific Flood Risk Assessment are accepted.

Transportation Planning – Any changes to the building line must be agreed with DLR Roads/Concerned with reduced level of parking/Parking survey did not complete any daytimes surveys of the parking use in the area/reduction in car parking from 90 to 36 spaces may cause overspill/type and location of cycle parking not acceptable/student parking is required in addition to the proposed parking/noise impact assessment required/motorcycle parking required/Conditions recommended.

Public Lighting – Lighting design not acceptable

Environment Section – Conditions recommended.

### **Elected Members**

8.1.4. Section 11 of the PA submission sets out a summary of the Views of Elected Members. The issues raised are set out below:

- Student accommodation use welcomed
- Concerns the amount of residential use is compromising the NC zoning objective
- Restriction on change of use/clarification on summer use
- Amenity concerns in relation to roof terrace
- Avoidance of Part V
- Concerns regarding daylight and sunlight
- Overlooking/opaque glazing suggested for Block B/noted louvres are proposed
- Loss of landmark/additional height at corner would be acceptable/only in context of reduced height of Block B
- Excessive height surrounding residential areas
- Proposal is premature/once built no footpath widening is possible
- Lack of car parking/need to avoid overspill parking
- Existing exit is being utilised/difficulty to exit
- Concerns in relation to the density
- Students may have cars
- Further consideration of traffic implications required

- Lost opportunity for cycle improvements/impact of the Deansgrange Cycle Plan on traffic/on the development
- One comment in support of the level of car parking

## 9.0 Prescribed Bodies

### Irish Water

- Recommend conditions

### An Taisce

- Note that the site is located in the buffer zone of the SPA from Booterstown to Dun Laoghaire/more comprehensive bird study would have been welcome/risk of bird collisions vary by species/proposed buildings pose a danger to birds
- Concerns in relation to the Bat Survey
- Note indirect connections within the Dalkey Coastal Zone and Killiney Hill pNHA
- Overlooking/Overshadowing
- Visual Impact
- Central space is a car park
- Limited private open space at ground level/roof terraces are inadequate
- Conflicts with Objectives UD 1 and UD 2 of the Development Plan
- Inadequate separation distances
- Overdevelopment
- Height is not justified /downward modifiers apply
- Concerns in relation to the Bat Survey
- Lack of car parking
- Inadequate Open Space

### Inland Fisheries Ireland

- Any discharges to surface streams present on or near the site must not impact negatively on the salmonid status of the Deansgrange Stream. /Comprehensive



surface water management measures (GDSDS study recommendations) must be implemented prevent any pollution of local surface waters/essential that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development /If permission is granted a condition is recommended to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor and silt traps/All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010

#### Transport Infrastructure Ireland

- Development should be undertaken in accordance with the recommendations of the Transport (Traffic Impact) Assessment/works required should be funded by the developer.

## 10.0 **Assessment**

10.1.1. The main planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Mix of Uses/Neighbourhood Centre Designation
- Design and Layout including Height and Public Realm/Conservation/Visual Impact
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transportation
- Ecology/Trees
- Flood Risk
- Site Services
- Other Issues
- Planning Authority's Recommended Reasons for Refusal

- Material Contravention

## 10.2. Principle of Development

### Zoning

- 10.2.1. The majority of the site (approximately 80%) is zoned 'Objective NC – To protect, provide for and/or improve mixed-use neighbourhood centre facilities'. To the north-east and east of the site a strip (approximately 20% of the site) is zoned 'Objective A – To protect and or improve residential amenity'. Residential uses, the definition of which includes student accommodation, is listed as a 'permissible use' on both land use zonings and is considered an appropriate use for the site. The Planning Authority has not raised an 'in principle' objection to the proposed student accommodation use.
- 10.2.2. Within the NC zoning, 'Shop-Neighbourhood', 'Tea-Room/Café', 'Offices less than 300 sq. m' and 'Public House' are permitted in principle. The proposed commercial units (which are less than 300 sq. m) in floor area are all located within the area of the site zoned NC. It would appear that some of the proposed public house use is within both the NC zoning and the Objective A zoning. A public house use is 'permitted in principle within the NC zoning and 'open for consideration' within the Objective A zoning. Given that the proposed public house is replacing an existing public house use on the site, and given the neighbourhood centre status of the majority of the site, I am of the view that the proposed public house use is considered appropriate.
- 10.2.3. While no end user has been defined for the commercial units (and this has been raised as a concern by the Planning Authority and by observer submissions) I note 'shop-neighbourhood', 'tea-room/café' and 'offices less than 300 sq. m' are all acceptable in principle within the NC zoning. I am of the view that an appropriate condition can be imposed by the Board, should they be minded to grant permission, requiring that the applicant submit details of the proposed uses of the commercial units, that are in line with that set out in the zoning objectives for the site. I am satisfied that the Board has sufficient information to make a decision, notwithstanding the lack of clarity as to the end user of these units. It would appear that the smaller unit has been identified for the most part as a 'shop' and that the potential use of second larger commercial unit would be subject of a future

application. This could be conditioned to allow greater certainty in the assessment. In any event, as it is asserted by most that a greater quantum of non-residential would be more in line with the zoning, non-residential uses/commercial uses in accordance with the zoning objective are considered appropriate at ground floor. The owner of Supervalu has argued that there is more than adequate convenience retail. However, having regard to the scale of retail possible, the proposed development would not unduly compete with Supervalu or Lidl in Deansgrange.

- 10.2.4. A number of observer submissions have stated that the proposal represents a material contravention of the Objective NC zoned lands as it does not deliver sufficient non-residential uses and would also be a material contravention of the Objective A zoning, as the proposal has a negative impact on surrounding amenity.
- 10.2.5. While the Planning Authority have not objected to the principle of the uses proposed, they have raised concerns in relation to the limited amount of commercial floorspace provided within the neighbourhood centre site, and have also raised concern in relation to the nature of the commercial floorspace that is provided, stating that the end use is unspecified and therefore the acceptability of same cannot be assessed (see discussion on same in Section 10.3 below and Planning Authority's Recommended Reason for Refusal No. 2). However, the Planning Authority has not stated the proposal is material contravention of the NC zoning objective. The Planning Authority have also stated that the proposed student accommodation accords with the Objective A zoning on the eastern portion of the site. While they have raised concerns in relation to the impact on surrounding residential amenity (see discussion in Section 10.6 and the Planning Authority's Recommended Reason for Refusal Nos 3 and 4) they are not of the opinion that that the proposal would materially contravene the zoning objective 'to protect and improve residential amenity..'
- 10.2.6. I am of the view that the proposal complies, in principle, with the various zonings on site, having regard to the mix of uses proposed, which are either 'permitted in principle' or 'open for consideration'. I would further note that there are no residential uses proposed at ground floor, in that Block A comprises a public house and the larger commercial unit and ancillary elements (incl. ESB substation), and Block B comprises the smaller retail/commercial unit at the street front, and the communal elements of the student accommodation – all of which increases the activity and

animation and passive surveillance of the proposed public realm. At ground floor the percentage of non-residential is notable and of an appropriate scale for the NC and A zoning, just under 50% of ground floor uses (c.766sqm of 1600sqm), with the remainder being communal elements of the student accommodation (canteen, meeting rooms, cinema, gym, etc.).

- 10.2.7. I have considered how the proposal complies with the broader aims and objectives of the Dun Laoghaire Rathdown Development Plan, as relates to neighbourhood centres in Sections 10.3 below, and I have considered the issue of surrounding residential amenity in Section 10.6 below.

#### Student Accommodation Use

- 10.2.8. As noted above the Planning Authority do not object to the principle of Student Accommodation on this site. While some observer submissions have welcomed the student accommodation use, a majority have raised concerns relating to same. It is stated that there is an overprovision of student accommodation and that the submitted Student Demand and Concentration Assessment Report does not show all the existing and permitted student accommodation schemes in the area. It is further set out that a mix of student and other tenure types would be more appropriate for this site.
- 10.2.9. Policy 'RES12: Provision of Student Accommodation' of the Development Plan seeks to facilitate student accommodation on student campuses in locations which have convenient access to Third Level colleges, particularly by foot, bicycle and high quality and convenient public transport, in a manner compatible with surrounding residential amenities.
- 10.2.10. Section 8.2.3.4 (xii) of the development plan sets out a hierarchy of priority for locations for student accommodation, on campus provision is at the top of the hierarchy, with locations within 1km of a third level institute at the second tier and locations in close proximity to high quality public transport corridors, cycle and pedestrian routes and green routes at the third tier. Matters to be considered in the assessment of applications for student accommodation include the amount of student accommodation already extant in the locality, in order to avoid the over-concentration of student accommodation schemes in any one area. It is noted that

the site is within 120m of the Dun Laoghaire Institute of Art Design + Technology (IADT) entrance and, therefore, is located within the second tier of the hierarchy.

- 10.2.11. The application is accompanied by a Student Demand and Concentration Assessment. The report refers to the Department of Education and Skills National Student Accommodation Strategy (2017) which refers to an excess demand of 13,569 units by 2024. 10 no. third level institutions located within 8.8km of the site are identified in the report, with the nearest being the Dun Laoghaire Institute of Art Design + Technology (IADT), which is located 120m from the site. A letter of support from the IADT accompanies the application. The report identifies 5 no. student accommodation developments, the closest of which is Bellintile Court located 280m from the site. The number of bedspaces is unknown, however it is set out that this is a small scale development, comprising of 2 no. 2 storey blocks. The nearest student accommodation developments of scale are located in the UCD Business School Campus, approximately 3km from the site, and it is set out in the report that there is a clear lack of student accommodation in the Dun Laoghaire area despite the presence of third level education institutes.
- 10.2.12. Within the Electoral Districts within a 1km catchment of the subject site, the report identifies a population of 18,477 persons (as of April 2016). I note the report incorrectly references that 202 no. student bedspaces are to be provided, which represents a total of 1.1% of the total resident population. In fact, a total of 276 no. bedspaces are to be provided, representing 1.5% of the total resident population. It is set out that there is a significantly low population of student accommodation in the area.
- 10.2.13. In relation to student accommodation schemes of scale permitted, I note that the report does not refer to all permissions granted recently by the Board in Dun Laoghaire Rathdown, specifically SHD applications, including that granted at the Vector Motors Site Goatstown for 239 student bedspaces (ABP Ref 308353) and at the Our Lady's Grove site, in Goatstown for 698 bedspaces (ABP Ref 309430). However the two schemes referred to above are located approximately 5km from this site and I am not of the view that they could be defined as local to the site. Notwithstanding, these noted errors and omissions in the report do not materially alter the conclusions, in my view and I am satisfied that there will not be an overconcentration of student accommodation in the area.

10.2.14. Observer submissions have raised concern in relation to the use of the proposed development for short term tourist accommodation. The proposed use of the student accommodation for short term tourism letting outside of term time is acceptable and in accordance with the definition of student accommodation under the Planning and Development (Housing) and Residential Tenancies Act 2016. Having regard to the proximity to public transport and the amenities including the wider tourist destinations served, I have no issues in this regard.

#### Density

10.2.15. Residential density parameters are not readily applicable to student accommodation proposals, given the nature and format of same. Notwithstanding, the submitted Planning Report sets out that the proposed development represents an indicative density of approximately 281 units/ha (based on 276 bed spaces with 2 bedspaces considered as 1 unit equivalent). Both the PA and observer submissions have expressed concerns regarding the density proposed representing overdevelopment of the site by reference to policy RES3: Residential Density of the development plan. While there is no agreed or explicit methodology to determine density relating to student accommodation, in response to concerns raised regarding over development of the site, it is considered that the policy documents referred to below are applicable as a guide as to appropriateness, or otherwise, of the proposed development.

10.2.16. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 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.

10.2.17. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and

ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.

10.2.18. In relation to Section 28 Guidelines, I note the provisions of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020) which state, with respect to location, that apartments are most appropriately located within urban areas. I note that these guidelines are not necessarily applicable to student housing developments, as they are not apartment units, but they do provide guidance on appropriate densities of development. It is stated within same that the scale and extent of housing development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.

10.2.19. My view is that the site lies within the category of a Central and/or Accessible Urban Location, as defined within the Apartment Guidelines (2020), given the site is located adjacent to a high frequency bus service (Bus Route 46a – see also Section 10.4) and is located within 120m of a third-level institution (Dun Laoghaire Institute of Art Design + Technology) which is defined as a significant employment location within the guidelines. The Guidelines note that these locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary). In principle therefore a relatively high density, such as the indicative density proposed here, is supported by the Apartment Guidelines.

10.2.20. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), the site could be considered under the category of a 'Public Transport Corridor' as it lies adjacent to a bus stop. The Guidelines note that the capacity of public transport (e.g. number of train services per hour) should also be taken into consideration in considering appropriate densities, and in this regard I note the high frequency of the 46a Bus Route, which has a peak hour frequency 6 services per hour/one bus every 10 minutes (see also discussion in Section 10.4 below). In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest

densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Given the site is approximately directly adjacent to the 46a Bus Stop, which is a high frequency transport service, the indicative density proposed here is also supported, in principle, by these guidelines.

10.2.21. In relation to Dun Laoghaire Rathdown County Development Plan 2016-2022, Policy RES 3 Residential Density is of relevance:

*It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development ...*

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

As is Policy RES4: Existing Housing Stock and Densification:

*It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.*

10.2.22. Section 8.2.3.2 (ii) of the Development Plan refers to residential density, and states *inter alia* that in general, the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) (see discussion of same above).

10.2.23. In conclusion therefore, a higher density, such as that proposed here, is supported by National and Regional Policy, Relevant Section 28 Guidelines and, in principle, is supported by the Development Plan, subject to the proposal meeting certain criteria including the need to provide high quality development and the protection of surrounding residential amenity.

### 10.3. **Mix of Uses/Neighbourhood Centre Designation**



- 10.3.1. The Planning Authority note that the majority of the site is zoned 'Neighbourhood Centre' and raise concern in relation to the balance of uses that are provided. It is stated that the pub and commercial units only comprise 8.7% of the proposed development. The reduction the overall public house floor area is not supported. There are concerns that the proposal does not achieve the NC zoning objective, although it is not stated that the proposal represents a material contravention of the NC zoning objective.
- 10.3.2. Observer submissions have stated that the balance of uses is at the detriment of the neighbourhood centre zoning and note the lack of a specific end user for the commercial spaces. Submissions set out that the proposal is a material contravention of the zoning objective.
- 10.3.3. Policy RET 6 'Neighbourhood Centres' of the Development Plan refers to the need to provide an appropriate mix, range and type of uses. ' It is further set out that the function of Neighbourhood Centres is to provide a range of convenient and easily accessible retail outlets and services within walking distance for the local catchment population. It is set out, in the supporting text, that introduction of residential and high level of commercial office activity could sit quite comfortably in many neighbourhood centre locations without detriment to local amenity. Policy RET9: Non-Retail uses : seeks to control the provision of non-retail uses at ground floor level in various locations with the county, include within the shopping parades of mixed-use neighbourhood centres. Section 8.2.6 'Retail Development' of the Development Plan states that Neighbourhood Centres are intended to cater for the daily shopping and service needs of the immediately surrounding neighbourhood and will consequently be generally small in scale. Table 3.2.1 sets out that, in established neighbourhood centres (which this site is) the mixed-use potential of such centres will be promoted, subject to the protection of local amenities, with limited incremental growth in retail floorspace in response to population levels.
- 10.3.4. In relation to the non-residential uses proposed, the applicants propose the provision a commercial unit (273.3 sq. m. in area) and a public house (292.4 sq. m in area) at ground floor level of Block A (Bakers Corner Building) and a commercial unit (127.5 sq. m in area) at ground floor level of Block B. The commercial unit within Block A fronts onto Rochestown Avenue with the public house fronting onto Kill Avenue, with the entrance lobby to same accessed off Rochestown Avenue. The commercial unit

at ground floor level of Block B fronts onto Rochestown Avenue and the pedestrian walkway to the south of the site.

10.3.5. In relation to the balance of uses proposed, I note that the policies and objectives of the Development Plan do not specify a particular quantum of non-residential uses that should be provided within neighbourhood centre sites. The residential element of the proposal, in terms of quantum of floorspace is by far the largest element (8,677 sq. m of residential floorspace is proposed). That is not an issue, in and of itself, given the need to develop such sites efficiently, and given the urgent need to deliver housing, including student accommodation units. I note that the existing commercial uses at the Forge Building are to be retained on the wider site (although I note the Forge Building is not included within the redline boundary of the application site) and will continue to contribute to the neighbourhood function of the site, and the proposed non-residential uses here will complement same. The ground floor frontage of the site will be commercial in nature, along Rochestown Avenue and Kill Avenue, with the commercial unit and public house also providing frontage onto the proposed urban square. I am of the view that the non-residential provision (which accounts for approximately 50% of the ground floor area) will be in line with that envisaged within such neighbourhood centres and will provide for the daily shopping and service needs of the immediate surrounding areas. The development is also in line with the 'Urban Villages' concept (Policy RE15 of the Development Plan refers), in that it provides shops and services within walking distance of neighbouring residential areas. The public house, albeit smaller in floorspace than the existing pub, will contribute to the function of same. In relation to the viability of providing additional non-residential uses on the site, I note that the site is within walking distance of Deansgrange Village Centre (approximately 500m) which provides a wide variety of shops and services for the surrounding area, and as such it is likely that demand for such shops and services can be accommodated within Deansgrange and by the uses proposed on this site. The provision of a large quantum of non-residential use, where it is not supported by demand, increases the risk of such units lying vacant, with a resultant detrimental impact on the public realm.

10.3.6. While the scheme is primarily residential, the ground floor uses for the most part provide animation and active uses. I note the current site provides only a limited

amount of active frontage onto Kill Avenue and onto Rochestown. Avenue and provides only a limited contribution to the public realm, with the majority of the site consisting of surface level car parking. The proposed commercial units at ground floor level of Blocks A and Block B continues the active frontage currently provided by the commercial units within the existing Forge Building, and provides animation and activity along the entire Rochestown Avenue frontage, save for the entrance to the car park. The public house use continues this activity to the Kill Avenue frontage. As such an active frontage is maintained along the perimeter of the neighbourhood centre site, in line with Policy RET 9 of the Development Plan. The ancillary student uses, including the common room and gym, also provide an element of animation and activity along pedestrian walkway to the south of the site.

### Conclusion

10.3.7. In conclusion, I am satisfied that the proposed uses provided are in line with the aims and objectives of the Development Plan, as relates to Neighbourhood Centres. The proposed commercial uses and the public house will provide an appropriate range of shops and services within walking distance of surrounding residential uses and will be set within a much improved urban environment, relative to the existing nature of the site, which is dominated by surface car parking and provides a poor contribution to the public realm.

### 10.4. **Design and Layout including Height and Public Realm/Conservation/Visual Impact**

#### Demolition

10.4.1. In relation to the principle of demolition, the Planning Authority note the contents of the Architectural and Archaeological Heritage Impact Assessment report, and have raised no objection to same (subject to the replacement being of sufficient design quality and achieving the land use zoning objective for the site – see further discussion of these issues below and in Section 10.3 above). Observer submissions have raised concerns about the loss of a community and heritage building.

10.4.2. It is proposed to demolish the existing public house on the site in order to facilitate the development. As referred to above, the application is accompanied by an Architectural and Archaeological Heritage Impact Assessment. This considers *inter alia* the heritage value of the existing Bakers Corner Public House. It is set out that

the public house is not a protected structure nor is it listed in the National Inventory of Architectural Heritage (NIAH). The site does not lie within an Architectural Conservation Area. In relation to the public house itself, it is stated that little of the building is original and the little remaining fabric has been much altered. The existence of later extensions to the building is noted. While the site itself has been in use as a public house since the 1830's, the report concludes that the existing buildings at Baker's Corner are probably 20th and 21st century with little or nothing remaining of the original 19th century public house. It is stated that while of little architectural quality, the building forms a strong corner at the crossroads. It is concluded that the existing Bakers Corner public house is of minor social interest being a place of gathering and that this function will be retained in the new proposal.

10.4.3. I note the contents of the above report, and I generally concur with the conclusions of same, in that the existing building is of little architectural merit and that the existing use as a public house serves a social function for the area, and that this use will be retained on the site. As such, I am satisfied that the principle of demolition is acceptable.

#### Height

10.4.4. The proposed heights are as follows:

- Block A (Baker's Corner Building): 5 to 6 storeys
- Block B (Main Student Accommodation Building): 4 to 6 storeys

10.4.5. The Planning Authority have expressed concerns in relation to height, and consider that the proposed development is contrary to Section 8.3.2 Transitional Zonal Areas, Policy UD1 and Appendix 9 (Building Height Strategy) of the Dun Laoghaire-Rathdown County Development Plan and is a material contravention of the Development Plan (See Planning Authority's Recommended Reason for Refusal No. 1).

10.4.6. The vast majority of observer submissions raise concerns in relation to the height and scale and design of the proposed development and resultant impacts upon adjacent residential properties.

10.4.7. Prior to my assessment of the heights proposed here, it is pertinent to set out an overview of current policy on height as set out at national level, and as set out in the

Development Plan. Policy on heights as set out in the relevant Section 28 Guidelines are then discussed, and I have utilised the criteria as set out in Section 3.2 of the Building Height Guidelines to form a framework for my assessment.

- 10.4.8. The National Planning Framework supports increases in densities generally, facilitated in part by increased building heights. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height, such as that set out here, is supported by the NPF therefore, subject to compliance with the relevant performance criteria.
- 10.4.9. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018). Within this document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers). In reference to the relationship between density and height, it is acknowledged that, while achieving higher density does not imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 refers). It is further stated that such increases in density and height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). The Height Guidelines also note that Planning Authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexible or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework. It is also noted that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes.
- 10.4.10. In relation to local policy on heights, the Dun Laoghaire-Rathdown Development Plan 2016-2022 sets out policy on Building Height under Policy UD6: Building Height Strategy, which states that it is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County, which is set out in Appendix 9 of the Development Plan. Appendix 9 details the Building Height

Strategy. Section 4.8 focuses on residual suburban areas not already included within boundaries of the cumulative areas of control. This current site is identified as being one such area. It states that a general recommended height of two storeys will apply. It further stated that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as 'Upward or Downward Modifiers'.

10.4.11. 'Upward Modifiers' are detailed in section 4.8.1 of the Building Height Strategy. It is stated that 'Upward Modifiers' may apply where: the development would create urban design benefits; would provide major planning gain; would have a civic, social or cultural importance; the built environment or topography would permit higher development without damaging appearance or character of an area; would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and, the size of the site of e.g. 0.5Ha could set its own context.

10.4.12. 'Downward Modifiers' are detailed in section 4.8.2. It is stated that 'Downward Modifiers' may apply where a proposed development would adversely affect; residential living conditions through overlooking, overshadowing or excessive bulk and scale; an ACA or the setting of a protected structure; strategic protected views and prospects; a planning or social objective such as the need to provide particular types of housing, employment or social facility in the area; an area of particular character including the Coastal Fringe and Mountain Foothills,

10.4.13. As such, subject to the criteria above being satisfactorily addressed, including the criteria as set out in Sections 4.8.1 and 4.8.2 of the Height Strategy, a development, in principle, could have a maximum height of 6 storeys and still be compliant with the Building Height Strategy. This proposed development has a maximum height of 6 storeys. I have considered the proposal's compliance or otherwise with the height strategy below.

10.4.14. In relation to the location, I note that the site is on a prominent corner site and, in principle, the 3-4 storey height would apply here. In relation to the application of the

'Upwards Modifiers' criteria I note the proposed development includes the provision of an urban square and landscaped walkway, accessible to the public, providing improvements to the public realm. It would serve to mark a major cross roads in the area. While the topography of the site is noted, I am of the view that this does not preclude the provision of a higher built form on this site, for the reasons I have set out below. The development would also provide a higher density scheme served by a high frequency bus service, although it is acknowledged that it is not within an area of exceptional public transport accessibility (which is defined in the Height Strategy as *inter alia* an area within 100m walkband on either side of a QBC). I note also a proposed QBC/Bus Priority Route that is indicated running along Rochestown Avenue (Map No. 7 of the Development Plan refers) and an existing Bus Priority Route running along Kill Avenue/Kill Lane (Map T2 of the Development Plan refers). The Height Strategy sets out that it is necessary for a development proposal to meet more than one 'Upward Modifier' criteria. In this instance I am of the view that the proposal meets 3 no. criteria (that relating to the marking of a major cross roads, public realm provision and topography) and therefore in principle an additional height of 2 storeys, over and above the maximum 4 storey height allowed for a prominent corner site such as this one.

10.4.15. In relation to the application of the 'Downward Modifier' criteria, I am not of the view that any such criteria apply here, notwithstanding the view of the Planning Authority in relation to same. I have considered the impacts of the development on residential amenity (Section 10.6) and visual amenity (in this section). The site does not lie within an ACA and I am of the view it does not negatively impact on the setting of the two closest Protected Structures to the site (see discussion below). The proposal does not impact on a protected view or prospect (as defined in the Development Plan). There is no specific objective to provide a particular type of housing on the site. In relation to employment and social facilities, there is no specific objective to provide a quantum of same, although I note the neighbourhood centre designation of the site, the requirements of which I have considered above. The site does not lie within an area of particular character, such as the Coastal Fringe and Mountain Foothills and is not defined as a particular landscape character in the Appendix 7 of the Development Plan – Landscape Character Areas.

10.4.16. Having regard to the above, and applying the criteria as set out in the Building Height Strategy, I am of the view that the proposal, which is up to six storeys in height complies with policy as relates to building height as set out in the Dun Laoghaire Rathdown Development Plan 2016-2022, and as such it could be argued that it does not represent a material contravention of same (see also Section 10.13 of this report). However, as the Planning Authority refer to Appendix 9 (Building Height Strategy) in recommended reason for refusal No. 1 and have included in this recommended reason for refusal a reference to a 'material contravention' of the Development Plan, it is considered that if the Board wished to consider a grant of permission that it should be done so having regard to the provisions of s.37(2)(b).

10.4.17. SPPR 3 of the Building Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. While it may be argued that upward modifiers facilitate height at this location, I note that the height proposed is higher than the prevailing height in the surrounding area and as such, the criteria under section 3.2 of the Building Height Guidelines, provide a relevant framework within which to assess the merits, or otherwise, of this proposed development. Furthermore, should the Board consider the proposed height materially contravenes the Development Plan in relation to height, and should they wish to grant permission, they are required to be satisfied that the criteria under Section 3.2 have been met, if they intend to rely on SPPR 3 for the material contravention.

10.4.18. Section 3.2 sets out detailed development management criteria, which incorporate a hierarchy of scales, (at the scale of the relevant city/town, at the scale of the district/neighbourhood/street; at the scale of the site/building), with reference also made to specific assessments required to be submitted with application for taller buildings. In relation to same I note the following.

#### City Scale

*The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*



10.4.19. The first criterion relates to the accessibility of the site by public transport and refers to the need for a high capacity, frequent public transport service. The site is located adjacent to a bus stop served by the 46a (Dublin Bus) and 75 and 75a (Go-Ahead) and a 2 minute walk from a bus stop served by the No. 63/63a (Go-Ahead) and the 7B and 7D (Dublin Bus). The 46A has a peak hour frequency of 6 services per hour, with the 7b having a frequency of 4 services per hour. The 46a also provides frequent links to the DART service at Dun Laoghaire. As such the site is well served by public transport, namely a high frequency bus service.

*Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*

10.4.20. In terms of the character of the area, the site is defined by the existing public house, which provides a visual landmark for the area and is of some social value, although it is of little architectural merit (see discussion above). The wider neighbourhood centre site includes a modern two storey commercial structure that does little to contribute to the character of the area. The wider site is dominated by the hard standing of the existing surface car parking. The surrounding area is comprised of mix of land uses. To the immediate east of the site is the Holy Family Church building and its associated car parking and small areas of green spaces. Further to the east is the Dun Laoghaire Institute of Art, Design and Technology, which include the Cube Building, a five story structure. On the opposite side of Kill Avenue, located approximately 100m from the site, there is a four storey apartment building (Glebe Hall). To the south-east and south, are two-storey residential properties at Grangewood Court, Grangewood and along Rochestown Avenue. To the west of the site, on the opposite side of Rochestown Avenue is the Ashbury nursing home, which is set at a lower elevation, and comprises a mix of single and two storey structures , as well as a three storey Protected structure (listed as 'The Grange Nursing Home' within Appendix 4 of the Development Plan – RPS No. 1449). This is set back a minimum of 58m from the western extent of the application site. Further west, are two storey residential properties forming 'The Grange' residential housing estate.

There is little defined character to the wider area. In terms of architectural sensitivity, there are no protected structures on the actual site, nor any buildings listed in the National Inventory of Architectural Heritage (NIAH). The site does not lie within an Architectural Conservation Area. As well as the Protected Structure that forms part of the Ashbury Nursing home, there is also a Protected Structure approximately 37m north-west of the site on Abbey Road (Fairholme, RPS No. 1442). It is set out in the Architectural and Archaeological Heritage Impact Assessment report that the proposal would not negatively impact upon either of these Protected Structures. I concur with the conclusions therein. In relation to the Grange Nursing Home building, I note that the proposed development will be seen in limited views towards same from The Grange residential estate, but at a distance but at a distance of some almost 60m beyond the structure. The Protected Structure is set well in from Rochestown Avenue, and, apart from those from 'The Grange' there are no readily apparent views of the proposal in the same setting as this building. In relation to 'Fairholme' there will be views of same in conjunction with the proposal from Abbey Road, but I am not of the view its setting will be negatively impacted upon, given both the design quality of the proposal (see discussion below) and the setback of the proposed development from this structure (c37m).

10.4.21. I have considered the cultural context of the site, and while I am cognisant of the social heritage value of the existing public house, as noted above the public house use is being retained (albeit a smaller floorspace), and its cultural value does not preclude a redevelopment of the site at a greater scale than existing.

10.4.22. As noted above, there are no key/protected views, as defined within the Development Plan, impacted by the proposal. A Townscape and Visual Impact Assessment (TVIA) (dated September 2021) has been submitted and I am satisfied the report has been prepared by a suitably qualified practitioner. The application is also accompanied by a CGI/Photomontage Document (dated July 2021), which the Visual Impact Assessment makes reference to. It is set out within same that the proposed height is commensurate with the width of the roads (3-4 lanes) on both sides and is appropriate (and even modest) by contemporary standards, for a neighbourhood centre site at the junction of two key urban thoroughfares. It is set out that the topography of the site will serve to emphasise the intended landmark effect, and that the development will strengthen the building line along Rochestown Avenue

and Kill Avenue, while allowing pedestrian permeability to be improved. The proposed increase in soft permeable surfaces on the site, and increase in the area of public and communal amenity space is referred to. It is concluded that the magnitude of townscape change that would result from the proposed development can be classified as 'high'. In terms of the significance of the townscape effects (measuring the magnitude of change against the sensitivity of the receiving environment), it is concluded that this will be moderate, with positive effects. In terms of visual effects, reference is made to the CGI/Photomontages document (dated July 2021) which sets out 16 no. views towards the proposed development and I refer the Board to same. From 10 no. views (Views 1, 2, 4, 5, 6, 8, 9, 10, 11) the visual effects are concluded to be significant and positive, from 3 no. views the visual effects are of slight to moderate significance and positive (Views 3, 7, and 15) and from 2 no views (Views 12 and 13) the visual effects would be of moderate significant and neutral, with visual effects from view 14 (Abbey Court) being of slight significance and neutral. No negative visual effects were identified. I do not concur with views of observers that an insufficient number of viewpoints have been provided within the Photomontage Documents. The viewpoints that have been provided illustrate the development from all relevant key receptors in my view and there are no obvious viewpoints that have been omitted from the document.

10.4.23. In relation to the conclusions set out in the report, I generally concur with same. The site is located at a key urban junction and can accommodate additional height, over and above that which exists on the site. I note the topography of the site, which sits at the brow of the hill as one moves in a north/easterly direction along Kill Lane from Deansgrange Village. However I am of the view that this elevation does not necessarily result in visual dominance or an overbearing appearance. Approaching the site from the west/south-west along Kill Lane, longer views towards the site from Kill Lane are somewhat restricted by the curvature of the road, and hence the visual impact of same is restricted to shorter views, and as such I am not of the view that the topography of the site is such that a height of a maximum of six storeys that proposed here would be unacceptable in urban design terms, and I am not of the view that the shorter views gained towards the six storey corner element would be one of an overbearing nature, and I share the view that the intended landmark function of the corner element is successful here. The site is generally on the same

plane as other surrounding roads (Kill Avenue, Rochestown Avenue and Abbey Road) in the immediate area. There are wider views towards the site from Kill Avenue, and especially towards proposed Block B, by virtue of the open nature of the area to the west of the Church. There are also views towards the corner element of the site from Abbey Road to the north, but views towards the eastern portion of the site are somewhat restricted by virtue of the trees on the green space at the junction of Abby Road and Kill Avenue, although less so in the winter months. There will be shorter views from Rochestown Avenue towards the site, but the curvature of the road also limits longer views towards the site. This is also true of views from Potter Road, although slightly more extensive views towards the site can be gained from viewpoints along this road. As per the conclusions of the LVIA, I am of the view that the majority of the visual impacts will be positive, as a result of the design quality of the proposal, and as a result of the improvements to the public realm proposed as part of the development.

10.4.24. I concur with the view set out in the TVIA report, that the most sensitive visual receptors, that of the housing in closest proximity to the proposed development, on Rochestown Avenue, have favourable orientations that do not provide direct views towards the proposed development, although it will be visible from oblique angles from some windows, and from some rear gardens. From those residential properties that will have direct views towards the development (from the front and rear of the properties), such as some of the properties in The Grange and on Kill Avenue, and from those at Grangewood Court, I am of the view that these are sufficiently set back from the development site so as to reduce the overall visual impact of same (see also further discussion on visual impact/visual amenity in Section 10.6 below). From those less sensitive receptors, such as from the roads and footpaths surrounding the site, I concur with the view set out in the TVIA report that the nature of the site, a neighbourhood centre, and the width of the surrounding road network, allow for a development of the height proposed, without resulting in adverse visual impacts. The proposal will read as a landmark structure on a key corner site, and will result in the creation of an urban block with street frontage along Rochestown Avenue, which is currently dominated by surface car parking and makes little contribution to the public realm, save for the current Bakers Corner building, which provides a strong definition to the north-western corner of the site. This definition can be replicated by the

current proposal, which as noted above, is successful in providing a landmark structure on this corner of the site. The proposed development introduces areas of new landscaped public realm, with subsequent positive impacts on the townscape.

10.4.25. In relation to the prevailing height, I have set out a consideration of same above.

Given its designation as a neighbourhood centre, and given the need to development these sites efficiently, a development of scale and height that is greater than the surrounding development is, in principle, appropriate, and is supported by national policy and relevant Section 28 Guidelines and while I am not of the view that the existing low rise character of the area should be replicated on this site, there does need to be an appropriate transition in height, as set out within Criteria 3.2. This is also set out in Section 8.3.2 'Transitional Zonal Areas' of the Development Plan, which states that particular attention must be paid to the use, scale and density of development proposals in order to protect the amenity of surrounding residential properties. The proposal has sought to have regard to its context and has provided appropriate transitions in height, in my view. The proposal reduces in height from a six storey corner element on Block A which drops to 5 storeys in height along Rochestown Avenue and along Kill Avenue. Further south along the Rochestown Avenue frontage, and closest to the most sensitive receptors, those residential dwellings on Rochestown Avenue, Block B is 5 storeys in height along the southern boundary of the site, adjacent to the pedestrian walkway, dropping to 4 storeys in height fronting onto Rochestown Avenue. Along the eastern boundary, which adjoins the open area of the Church Grounds, Block B is 6 storeys in height. This is set back from the boundary by some 8.6m. I share the view as set out in the LVIA that this is a less sensitive receptor, and while there will be extensive views of this element from the church grounds, I am not of the opinion that any adverse visual impacts will result.

10.4.26. Overall I am of the view that the proposal has successfully achieved a balance between a higher density development which makes more efficient use of a key urban site (notwithstanding the wider suburban character of surrounding lands), and one which has had sufficient regard to its context, as required by Building Height Guidelines, and as required by the relevant policies and objectives of the Dun Laoghaire Rathdown Development Plan 2016-2022.

10.4.27. A further criteria set out in Section 3.2 of the Guidelines is the contribution of tall buildings to place-making and the introduction of new streets and public spaces. As set out above the proposal introduces a new urban square and pedestrian permeability is provided though same and also along the existing right of way to the south of the site, via a landscaped walkway as well in a north-south direction along the eastern boundary of the site. I note that the Planning Authority have raised concerns in relation the quality of the urban square that has been provided and have stated that it is dominated by surface car parking. Observer submissions have raised similar concerns. In relation to same, I am cognisant of the need to provide sufficient car parking to serve the existing and proposed uses on the site (see discussion in Section 10.7 below) and the need to provide a public realm of sufficient quality. I am also cognisant of the existing poor quality urban realm provided by the site. However, I share the view that the surface car parking does limit the functionality of the square somewhat. I am of the opinion there is some scope to improve the public realm provided by the omission of 4 no. car parking spaces, those spaces closest to Block A. This would allow for more defined area of functional public realm with only limited impacts on the amount of car parking provided. This improved public realm, combined with the landscaped pedestrian thoroughfares, would result in a situation much improved when compared with the existing, and would be of a sufficient quality in my view, befitting of its status as a neighbourhood centre. Should the Board be minded to grant, a condition is recommended requiring the omission of these 4 no. car parking spaces. As discussed in Section 10.7 of this report, I am satisfied that the loss of 4 no. spaces will not have a material impact on traffic or car parking management on site, and can be justified in the context of the current Development Plan.

10.4.28. In relation to the detailed design and materials proposed, the design statement sets out the approach to same, and notes that a range of material reflecting the site's immediate context have been utilised, including brick faced panels, render, architectural concrete copings, aluminium triple glazed windows, glazed screens and doors and polyester powder coated aluminium fins. I have no objection to the materials proposed, and are of sufficient quality in my view.

- 10.4.29. In terms of contribution to the streetscape, including the provision of active frontages, I have considered same in Section 10.3 above and have concluded that sufficient animation to the frontages of the site has been provided, in my view.
- 10.4.30. Criteria 3.2 sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies. I have considered in detail the mix of uses proposed, which also need to be considered in the context of the site's designation as a neighbourhood centre, in Section 10.3 above. In terms of the mix of residential units provided, the proposal provides 276 no. bedspaces with associated facilities. The surrounding residential typology in the area is one of two storey residential dwellings, with a smaller number of apartment developments in the surrounding area (such as Glebe Hall). As such the proposal, comprising of student accommodation units, contributes positively to the provision of a mix of building dwelling typologies.
- 10.4.31. At the scale of the site/building, it is expected that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.
- 10.4.32. I have set out my assessment of the internal amenity of the proposed units, as results to daylight and sunlight in Section 10.5 below, and I am satisfied that a sufficient standard of daylight would be provided to the units, with BRE targets been achieved. I have considered the issue of overshadowing of proposed amenity spaces in Section 10.5 below. I have considered the issues of surrounding residential amenity, in relation to overshadowing, daylight and sunlight in Section 10.6 below, and I am satisfied that there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.
- 10.4.33. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of the micro-climatic effects of the proposed development. In relation to same, the applicants have submitted a wind study which addresses this requirement (see discussion of same in Section 10.5

below). In locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight -lines and /or collision. I note the submission from An Taisce who have cited concerns in relation to the potential for Bird Collisions. However, there is no evidence on file or within any of the submissions received, that the location is particularly sensitive location having regards to the potential for bird or bat flight lines and collision, including in relation to birds associated with any European Sites (See Section 12 below). Further it is unlikely that the proposed development would have a material impact on telecommunication channels and no party has raised this as an issue.

10.4.34. While I have considered the proposal within the framework of the Building Height Guidelines, proposals which are of increased densities are also expected to comply with the 12 no. criteria in the Urban Design Manual that accompanies the Sustainable Residential Development in Urban Areas (2009). In relation to same, having regard to the above, I am of the opinion that the proposal responds well to its context. Connections and permeability are discussed above and the proposal complies with this criteria. An improved public realm is provided as well as landscaped pedestrian/cycle walkways. Sufficient internal and external communal areas have been provided within the scheme (see discussion is in Section 10.5 below). A variety of uses are provided on the site (see discussion in Section 10.3 above). The proposal makes efficient use of land, as discussed above, and provides for a distinctive development that is a positive addition to the locality, and provides for landmark structure that will define the site and wider area. I am satisfied in relation to the layout and the public realm provision. Partitions within the scheme allow for future adaptability. The proposal meets and exceeds standards and I am satisfied in relation to the level of daylight provided to the units and in relation to the overall standard of accommodation for end users (see relevant discussion below). In terms of the parking proposed, I have considered this issue in Section 10.7 below and I have considered the issue of detailed design above, within this section of the report, and I have concluded that the proposal achieves an appropriate form of development for the site.

## 10.5. Residential Amenities/Residential Standards



- 10.5.1. The submission from the Planning Authority sets out concerns in relation to the provision of amenity spaces, stating that there is an inadequate level of open space at ground floor level with unacceptable open spaces at roof level. It is set out that the proposed urban square is not considered to make any meaningful contribution towards usable amenity space and that this is an area for vehicles associated with the proposed public house, 2 no. commercial units, the existing Forge commercial units and deliveries. The green corridor represents residual strips which fail to provide any meaningful open space area for future occupants. Concerns are also raised in relation to the low Average Daylight Factor results in the proposed new building.
- 10.5.2. Observers also note that development relies on provision of rooftop terraces in order to satisfy both the public and communal open space requirements. It is also set out that the green space adjacent to the development was originally set out for the residents of Grangewood and that the applicant intends to use this space for his development. It is set out that there is generally insufficient amenity space associated with the development and that there is lack of adequate public open space. It is set out that the size of the proposed clusters seems excessive.
- 10.5.3. I have considered the issues raised in the PA submission and in the observer submissions in the relevant sections below.

Daylight and Sunlight to the proposed units

- 10.5.4. The applicants have submitted a 'Daylight & Sunlight Assessment' (dated September 2021). This considers daylight and sunlight impacts to existing dwellings (see consideration of same in Section 10.6 below) and daylight provision to the proposed units.
- 10.5.5. Daylight
- 10.5.6. 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. Section 1.6 of the BRE 209 Guidelines states that the advice given within the document is not mandatory and the aim of the guidelines is to help, rather than constrain the designer. Of particular note

is that, while numerical guidelines are given with the guidance, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers).

10.5.7. In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. However, Section 5.6 of the BS8206 – Part 2: 2008 Code of Practice for Daylighting states that, where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%.

10.5.8. The application is accompanied by a Daylight & Sunlight Assessment, which considers *inter alia* the daylight achieved to the proposed units. All of the units on the first and second floors of Blocks 1 and 2 are considered. It is demonstrated that 100% of the proposed rooms on the first and second floors of these blocks were in excess of the BRE Guidelines as relates to ADF. The target values that have been utilised are as follows:

- 2% for Kitchen/Living/Dining Areas
- 1.0% for bedrooms

10.5.9. I am satisfied that the targets chosen are the appropriate targets for each of the spaces assessed and I am satisfied that the rooms on the floors above first and second floors will also achieve BRE targets, as relates to daylight. I note that the layout of the student accommodation differs from that of 'standard' residential units, in that the bedroom areas are 'clustered' around a shared 'living/kitchen/dining area'. However I am satisfied that the standards set out in BRE Guidelines are equally

applicable to this type of accommodation, notwithstanding the guidance does not specifically consider 'student' or similar accommodation layouts.

### Sunlight

10.5.10. 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 assessment does not provide analysis in this regard; however, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 that 'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light'. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'.

10.5.11. While there is no analysis provided, I note the orientation of the proposed units (as discussed above) which, in my view, will allow sufficient access to sunlight for the majority of the units. Overall, given the orientation of the proposed blocks, I am satisfied that the acceptable levels of sunlight will be achieved to most 'living/kitchen/dining areas' in the proposed development in recognition of BRE criteria.

### Sunlight to Proposed Amenity Spaces

10.5.12. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The report considers sunlight levels to 4 no. amenity spaces, the 2 no. roof terraces in Block 1, the 1 no roof terrace in Block 2 and the ground level amenity space and it is demonstrated that the sunlight received to these areas significantly exceed BRE standards, with 100% of the area of the 2 no. terraces in Block 1 receiving more than 2 hours of daylight on March 21<sup>st</sup>, with 98.4% of the area of Block 2 receiving same. 95.2% of the area of the ground floor amenity space receiving same.

### Conclusion on Daylight, Sunlight and Overshadowing

- 10.5.13. I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.
- 10.5.14. There are no shortfalls indicated and the proposals meet and exceed BRE standards in relation to daylight and sunlight to amenity areas. While I note the concerns of the Planning Authority in relation to the ADF achieved by the proposed units, the values that have been achieved are in line within BRE Guidelines and are therefore acceptable, in my view, and demonstrate that the proposed units will receive sufficient daylight internally.
- 10.5.15. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight and sunlight provision, sunlight provision to amenity areas, and having regard to the overall levels of compliance with BRE Targets. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines, and provides a satisfactory level of amenity for future occupiers.

### Student Accommodation Standards

- 10.5.16. The proposed development will provide for 38 no. clusters, comprising 276 no. student bed spaces, with associated ancillary living, kitchen and dining areas. All bedroom suites will be approx. 12.1 sq m in size, apart from the accessible bedroom suites which are measured at 20.6-22.5sqm. A total of 8 no. accessible suits are proposed for the development.
- 10.5.17. In relation to Block A - Bakers Corner Building, this building will be accessed via the ground floor level, which will comprise of the communal facilities, plant areas, waste

storage and 1 no. commercial unit and 1 no. public house (approx. 273.3 sq m and 292.4sqm respectively), fronting Rochestown Avenue and Kill Avenue. The first to fourth floor levels will all have the same layout. Floors 1 to 4 will comprise of 3 no. units. Each unit will in turn contain of 6, 7 or 8 bedspaces with shared living, kitchen and dining area. In addition, a communal lounge of 12.2sqm is also proposed on floors 1 to 4. The fifth-floor level will comprise of 1 no. unit with 7 bedspaces. The students will have access to 2 no. communal roof terraces at this level, which will be approx. 150 sqm and 60sqm in size. There is also a communal lounge / study room at this level of approx. 46.8sqm.

10.5.18. In relation to Block B 'Main Student Accommodation Building', this building is also accessed via the ground floor level and comprises of communal facilities to include, cinema, canteen, reception area, admin offices/security, post room, meeting rooms, waste management, storage area, common rooms, coffee dock, gym, laundry, plant room, bicycle store, breakout space. A commercial unit of 127.5sqm is proposed at ground floor level at the Rochestown Avenue frontage. The first to third floors will have the same layout and will comprise of 6, 7 and 8 bedspaces with shared living kitchen and dining areas. The fourth-floor layout comprises 3 no. units accommodating 2 no. units with 7 no. bedspaces and 1 no. unit with 8 no. bedspaces. The fifth-floor level will comprise 2 no. units, with 1 no. 8 bedspaces and 1 no. 7 bedspaces. A communal lounge of 27.5sqm is also proposed to the south of this block at fifth floor and a south facing roof terrace of 451sqm.

10.5.19. In terms of the provision of acceptable accommodation for students, it is noted that there are no national design standards other than those issued under Section 50 of the 1999 Finance Act (Department of Education and Science Guidelines on Residential Development for Third Level Students (1999), the subsequent supplementary document (2005) and the 'Student Accommodation Scheme', Office of Revenue Commissioner (2007)). Policy RES 12 and Section 8.2.3.4 (xii) of the development plan requires student accommodation proposals to comply with these guidelines.

10.5.20. The guidelines set out the following general standards:

- Student accommodation should be grouped as 'house' units, with a minimum of three and maximum of eight bed spaces.

- GFA's should range from 55 sqm to 160 sqm.
- Shared kitchen/dining/living room space is to be based on a minimum of 4 sq. m per bed space in the unit.
- The minimum areas for bedrooms are: 8sq.m for a single study bedroom; 12 sq.m for a single study bedroom with ensuite; 15 sq.m for a twin study bedroom; 18 sq.m for a twin study bedroom with ensuite; and 15 sq.m for a single disabled study bedroom with ensuite.
- Bathrooms shall serve a maximum of 3 bed spaces.

10.5.21. The application is accompanied by a Housing Quality Statement which has set out how the proposal meets and exceeds the standards as set out in this guidance. In relation to the accommodation provided it is set out that the proposal meets the standards therein, with a maximum of 8 bed spaces per unit provided, and the required living and ancillary space provided. In relation to the kitchen/living room areas, a minimum of 4 sq. m. per bedspace should be provided, and these standards are exceeded. Each of the rooms provided are at least 12.1. sq. in size. The single accessibility study bedrooms are en suite and incorporate Part M compliant 1800mm square turning area and shower room. As per the guidance, the total area of communal floorspace does not exceed 12% of the total area of the development (it equates to 9.96%).

10.5.22. Having regard to above, it is my view that the proposed development would provide an appropriate level of amenity for future residents and is in compliance with the relevant standards for same, and is also therefore in compliance with Policy RES 12 and Section 8.2.3.4 (xii) of the Development Plan.

#### Communal Open Space/Public Open Space

10.5.23. In relation to residential/housing developments, I note that Section 8.2.8.2(1) of the Development Plan sets out a requirement for public and/or communal open space of 15 sq. m to 20 sq. m. per person, with a default minimum of 10% of the overall site area, and it is set out that the requirement shall apply based the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer

bedrooms. While this method of calculation is not directly applicable to student accommodation units, it is possible to calculate that the occupancy rate of the development will be a maximum of 276 persons, as each student bedroom will accommodate 1 no. person only.

10.5.24. In terms of the quantum of open space provided, the supporting documentation sets out that the proposal provides for a total of 661 sq. m. of communal space in the form of roof terraces. Applying the 15 sq. to 20 sq. m standard, the communal/public open space required would be between 4,140 sqm and 5,520 sq. m. However, this figure generally equates to the entire site (where the site size is noted as 4830sqm). Provision of this quantum of open space for the proposed development, having regard to the nature of the development and site, would not be in accordance with sustainable development principles, compact growth, etc. Therefore, a legitimate proposal to reduce the quantum of open space, in favour of providing high quality/exceptional standard of open space, the default minimum of 10% of the overall site area would be a more appropriate target, and would equate to 483 sq. m of communal/public open space. The roof terraces equating to 661sqm exceed this target. As such I am satisfied that the proposal complies with the standards for public/communal open space as set out in the plan in terms of quantum.

10.5.25. In terms of the quality of this communal space, I am satisfied that it is of a high standard, appropriate for the needs of end users – i.e. students. The spaces will be furnished and useable for socialising, are well lit and have exceptional access to sunshine, and are not adversely impacted by micro-climate issues around wind etc.

10.5.26. The applicants do not appear to rely on the proposed 'Urban Square' to fulfil any policy requirements as relates to open space provision, and I am satisfied that it is not necessary to do so, having regard to the discussion above. Notwithstanding, an area of public realm has been provided at ground floor level. In relation to the quality and usability of the Urban Square, I share some of the concerns of the Planning Authority and of observers in relation to the nature of same. In my view, the majority of the central area provided functions as a surface car park, with limited usability as an amenity space. The area surrounding the car parking area is the only functional area of open space, with the majority of this limited to the circulation area. However subject to the omission of the 4 no. car parking spaces as suggested in Section 10.4 above, the quality of this space is much improved, as is the functionality of same.

The area to the east and south east of Block B is more functional as an amenity area, with a car free plaza and walking/cycling route provided within an area of landscaping, that provides permeability through the site.

10.5.27. I note also that observer submissions have raised concerns that the applicant is relying on the adjacent green space (to the south-east of the site, adjacent to the church grounds and which serves the residents of the adjoining housing estates) in order to fulfil the open space requirements, and that the occupants of the development will utilise this space. In relation to the former point, I am satisfied that the applicant is not relying on this space to fulfil the open space requirements associated with the development proposal, having regard to the detailed discussion of same above. In relation to the potential for the occupants of this development to utilise this area of green space, I accept that this is a possibility, given that the area is at present, and will be, accessible to the public, following completion of the development. However, it would appear from the observer submissions that this area is already being utilised by members of the public, with the nature of the area attaching some anti-social behaviour, reducing the amenity value of the space. It may be the case that the additional passive surveillance resulting from the development will discourage the use of the area for anti-social activities, resulting in an overall greater amenity value of the space. Potential anti-social behaviour by future occupants of the development, outside of the boundaries of the site would be a matter for the authorities (i.e. An Garda Síochána) if such issues were to arise. However, I am satisfied that sufficient communal amenity space has been provided within the development itself which will reduce the likelihood of this green space being utilised by occupants of the development.

10.5.28. I note also the submission from the Union of Students in Ireland (USI) and the IADT Students' Union, which are generally supportive of additional student accommodation, but also state that the amenities provided as part of the development would render it unaffordable to most students. In relation to same, I note that the provision of such amenities is standard in modern student accommodation developments, and furthermore, no evidence has been provided in order to support the argument that such amenities result in the units becoming unaffordable to potential occupiers.

Wind/Microclimate



10.5.29. A Wind and Microclimate Modelling Report was submitted with the application (dated September 2021). The report concludes that mitigation measures such as the use of adequate landscaping at ground floor level will be sufficient to ensure that the proposed development will be attractive and comfortable for pedestrians of all categories. Pedestrian areas within the development are suitable for long term sitting, with some areas only suitable for standing or short term sitting due to minor re-circulation effects of wind at the corners of the blocks. These conditions are not occurring at a frequency that would compromise the pedestrian comfort. Quantitative wind microclimate analysis of the proposed development within the existing surrounding environment shows that the proposed development does not impact or give rise to negative or critical wind speed profiles at nearby adjacent buildings, or roads.

## 10.6. Surrounding Residential Amenity

10.6.1. The nearest residential dwellings are located approximately 15m to the south of the site at 19 Rochestown Avenue, approximately 50m to the south-east of the site at Grangewood, approximately 40m to the north-west of the site at 'Fairholme', approximately 60m to the north-east of the site at Kill Avenue/Casement Villas and approximately 40m to the west of the site 'The Grange'. There is a nursing home (Ashbury) located approximately 25m to the west of the site on the opposite side of Rochestown Avenue.

10.6.2. The submission of the Planning Authority states that Block A is overbearing and results in adverse residential impacts. It is further stated Block B also reads as domineering and overbearing also and the large roof terrace will lead to amenity impacts. It is stated that the development would overlook adjacent sites and that a revised fenestration pattern and the omission of fourth and fifth floors of the blocks would mitigate overlooking impact. It is further stated that the removal of terraces would overcome noise concerns.

10.6.3. Observer submissions have also raised concerns in relation to impacts on daylight, sunlight and overshadowing. It is stated that the proposal will result in overlooking, overshadowing and will be overbearing with adverse visual impacts. It is stated the proposal will have a negative impact on the nursing home in terms of visual impact, daylight sunlight overlooking and noise. In relation to the daylight/sunlight report it is stated that not all windows were assessed. Impacts on the nursing home and the

church have been raised as concerns. Noise impacts from the roof terraces and from the use of the surrounding green spaces have been raised as a concern. Concerns have also been raised in relation to the proposed use over the summer months.

#### Daylight and Sunlight

10.6.4. 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. However, it should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines.

#### Daylight

10.6.5. Paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.

10.6.6. The applicant has submitted a Daylight & Sunlight Assessment which considers *inter alia* daylight and sunlight impacts on existing dwellings, and impacts on adjoining gardens and open spaces. The surrounding properties considered in the report are as follows:

- The Forge (a mix of residential and commercial uses – there are 4 no. duplex units on the first and second floors)
- Ashbury Nursing Home
- No. 19 Rochestown Avenue (residential property)

10.6.7. In relation to Ashbury Nursing Home, of the 23 no, windows assessed for VSC, 16 of the windows meet BRE Guidelines, with 7 of the windows not meeting BRE guidelines. The window that is impacted the greatest is Window No. 14, which sees its sunlight levels reduced to 72.7% of its former value. The remaining windows have

impacts less than this. I note an observer submission has stated that not all of the windows of the nursing home have been assessed. From a site visit, and an aerial view provided by Google Earth, it would appear that all windows that would be materially impacted have been considered. There are a number of windows on the lower floor that do not appear to have been considered, however these are in close proximity to the boundary wall and would already be compromised as a result of this location, and I am not of the view that the proposal would further compromise these windows. There is a smaller window adjacent to Window No. 11 that has not been considered. However this is set back further from Block A than window No. 11 which meets BRE criteria and I am of the view that this smaller window would also meet BRE criteria, and is also set back sufficiently from Block B so as to ensure that material impact is unlikely.

10.6.8. In relation to No. 19 Rochestown Avenue, it is shown that all of the windows assessed to the rear (excluding skylights) meet BRE criteria, with the greatest impact at window No. 27, which sees its daylight reduced to 88.7% of its former value. This appears to be a first floor bedroom window. I note observer submissions have noted that not all of the windows of this property have been assessed, and note the windows on the side elevation of this property have not been considered in the report, and are not indicated on the associated diagrams within the report. I note that there are two windows at ground and first floor levels. These appear to be secondary windows serving bathrooms. As such they are not required to be assessed, as per BRE guidelines. There is a glazed door on the side elevation also. An observer submission from the occupiers of this property state that this serves a kitchen area. In relation to this glazed door I am of the view that daylight to same, and to the two no. windows on the side elevation, is compromised to a large degree by the existing structure to the immediate north of this property (to the rear of the former Garda Station building), and I am not of the view that the proposal is likely to have a material impact on the level of daylight to the rooms that these windows are serving.

10.6.9. In relation to the 'The Forge' building, the report indicates that there are four no. residential apartments to the south of the Block on the upper floors and the layout is available on the Local Authority webpage. The layout of the units are not included in the report and these do not in fact appear to be accessible on the Planning Authority's webpage. The existing layouts of the units have been submitted with the

application (Dwg. No. PL 23) although the room types are not labelled/indicated on the plans. It is stated within the report the units are duplex apartments. In relation to those windows on the first floor (Window no.'s 28 to 33), all 6 no. windows fail to meet the BRE criteria, with the report concluding that there is a major impact on 4 no. windows and a moderate impact on 2 no. windows. The report does not indicate the type of room (i.e. living room, bedroom etc) that are served by each affected window. Window no. 28 experiences the greatest impact, with the sunlight levels falling to 34.6% of existing. Impact on other windows are less than this. In relation to the second floor windows, it is noted within the report, that these are skylights, so a VSC assessment cannot be used as the window is not vertical (as set out in the BRE Guidance). In this instance a target for a vertical wall is used at 27%. It is noted that, of the 12 no. windows assessed, all of the windows exceed BRE criteria (for window in a vertical wall).

10.6.10. In relation to daylight impacts on the residential units at The Forge, I note that the report concludes that there will be major impacts on 4 no. windows (serving 2 no. residential units), and moderate impacts on the remaining 2 no. residential windows at first floor level. I concur that impacts will be as stated in the report, with a VSC reduction of over 50% in two cases, resulting in VSC values of 16.85 (window 32) and 17.74 (window 33). I note that the submitted report states that the residential units within 'The Forge' are duplex units, and I note the lesser impacts on the 2<sup>nd</sup> floor velux windows, which are within BRE guidelines, and I am of the view that a reasonable level of internal daylight will still be achieved over both floors of the 2 no. residential units in question. I am also of the view that any development of scale, that makes more efficient use of the site, will impact on the amenity of these properties. The site is currently underutilised, dominated by surface car parking, and the existing open nature of the site allows for extensive daylight to reach the windows on the eastern elevation of the Forge. I note also that, with the proposed development in place, the windows on the eastern elevation of the Forge Building maintain a relatively open aspect, as the nearest built form of proposed Block B lies to the south of The Forge, with the windows retaining a view over the central portion of the site.

10.6.11. In relation to the conclusions of the report, in terms of impacts on daylight, I generally concur with same. I am of the view that where shortfalls in meeting BRE targets have been identified, the quantum of windows affected is relatively small, although the

impacts are considered to be major or moderate. However, I am of the opinion that impacts on same are, on balance acceptable, having regard the minimal impacts on the remaining windows of the Forge, to the existing open nature of the site and the need to deliver wider planning aims, including the delivery of housing and the regeneration of an underutilised urban site.

#### Sunlight

10.6.12. The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. The submitted report notes that there are no relevant windows that face within 90 degrees of due south, and as such there will be no impact on the sunlight in any adjacent residential property. I am satisfied that this is the case.

#### Shadow Analysis

10.6.13. In relation to overshadowing, the BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21<sup>st</sup> March.

10.6.14. The report considers those amenity areas that are due north of the proposed development and these include the open space opposite the site on Kill Avenue (L1) and the area around the church (L2). All of these spaces meet the BRE Criteria within only a very minor impact indicated on the church grounds, with 99.8 % of the area receiving 2 hours of sunlight on the 21<sup>st</sup> March (reduced from 100% of the area).

10.6.15. The report has included a shadow study which indicates overshadowing impacts at other times of the year. There is greater impacts during the winter months on the church grounds in particular. However, this is a less sensitive use in my view, and the open space to the front and side of the church does not appear to serve as an amenity space for the church or the wider area. I note an observer has stated that the amenity areas of the nursing home have not been considered. It would appear that the majority of the amenity space of same is located on the western side of the building, and would not be impacted by the proposed development, and any overshadowing of same would result from the nursing home building itself. There is a

small area of green space adjacent to the eastern boundary wall, but this is likely to be heavily overshadowed by the existing boundary wall and additional impacts as a result of the proposed development are unlikely.

10.6.16. In conclusion, and having regard to impacts to daylight and sunlight levels to surrounding properties, and overshadowing of same, I am satisfied that external daylight, sunlight and overshadowing report has identified all potential impacts and I am satisfied that the majority of properties will experience impacts that are in line with BRE Targets. In relation to the those rooms where shortfalls of significance have been identified, to those units within The Forge Building, I have considered the significance of same above, and while I acknowledge there will be an impact on daylight levels to these particular rooms, the overall impact is on balance acceptable having regard to the detailed discussion above. I am satisfied that impacts on surrounding amenity spaces will also be acceptable, having regard to the considerations above.

#### Overlooking/Loss of Privacy/Visual Impact

10.6.17. 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.

10.6.18. The Planning Authority have stated that the proposal would result in adversity impacts on residential amenity including overbearing, daylight, sunlight overshadowing and overlooking impacts. It is highlighted than no noise modelling was carried out and that a noises assessment is required. It is further set out that no mitigation in relation to noise impacts from the terraces is proposed, with the proximity to the nursing home cited. It is stated that a revised fenestration pattern and the omission of fourth and fifth floors of the blocks would mitigate overlooking impact and that removal of terraces would overcome noise concerns

10.6.19. A number of observer submissions state that the proposed development would lead to overlooking and loss of privacy, and would be overbearing in nature, having regard to the height and proximity to the boundaries. Concerns is raised also in relation to the impacts of the proposed roof terraces.

10.6.20. The closest residential properties to the proposed development are located to the south of the proposed development on Rochestown Avenue. From an assessment of the submitted drawings, I have calculated that the closest property, No. 19 Rochestown Avenue, is located 15m from the southern boundary of the site, and 22m from the south/south-east elevation of Block B, at its closest point. The rear garden of this property is located 19.5 m from Block B, at its closest point. In relation to overlooking, the principal windows of No. 19 Rochestown Avenue, and of other properties along Rochestown Avenue, are orientated in a south-west/north-east orientation, and as such no window to window overlooking will result from the development, and therefore the minimum distance of 22m between directly opposing windows has been adhered to in this instance, despite the building-to-building distance being below 22m.

10.6.21. I note a number of the windows on the southern end of Block B have fins to prevent overlooking. I am of the view that these serve to protect the future amenity of any development on the site immediately to the south of this site (The former Garda Station building) rather than serve to overcome overlooking of existing residential properties. In terms of overlooking of rear gardens, the separation of the nearest rear garden (at No. 19 Rochestown Avenue) to the proposed development is 19.5 m and this is sufficient to prevent any material overlooking. In any case, I note there is a large structure located on the south-eastern boundary of the former Garda Station building, to the immediate north-west of this garden which will partially obscure views from the development over this garden.

10.6.22. In relation to those properties at Grangewood, to the south-east of the site, the closest property (No. 18 Grangewood) is located approximately 55m from Block B, and as such no material overlooking will result.

10.6.23. In relation to the nursing home, the closest window to window distance is 25m, which exceeds the minimum 22m separation distance as set out in the Development Plan and I am satisfied that no material overlooking will result from the proposed development.

10.6.24. I note the separation distance to all surrounding proposed here exceeds the 22m separation distance between opposing first floor windows cited in Section 8.2.8.4(ii)

of the Dun Laoghaire Rathdown Development Plan. I am satisfied there is sufficient setbacks proposed in order to overcome any material loss of privacy.

10.6.25. In relation to other properties, I am of the view that all other properties not referred to above are sufficiently set back from the proposed development to ensure that no material impact from overlooking results.

10.6.26. In relation to visual impact, I have discussed this in detail in relation to views from the street, and the resultant visual impact of same, in Section 10.4 above. In relation to views from adjacent properties, views from the rear garden of No. 19 Rochestown Avenue will be partially obscured by the existence of the large structure to the immediate north-west of same, although there will be views towards the development from some areas of this garden, and it is clear that that development will be visible from some areas of this garden, and from other gardens further south. However, I note that the site is a designated neighbourhood centre and, given the overarching national and regional support for compact growth, a development of scale is appropriate for this site. I acknowledge that the view towards the site, from the gardens of properties along Rochestown Avenue, will change substantially, given the current low rise development on the application site, of which views towards same are not readily apparent from surrounding residential gardens. Of relevance also when considering visual impacts/impacts on visual amenity is the separation distance, and the height of the proposal close to the southern boundary of the application site. As noted above, the minimum separation distance from the garden at No. 19 Rochestown Avenue to the proposed development is 19.5 m. I note that immediately adjacent to Rochestown Avenue, proposed Block B is 4 storeys in height, rising to 5 storeys along the southern elevation, and then 6 storeys along the eastern elevation of Block B. Views from the rear garden of 19 Rochestown Avenue, and from other rear gardens further south, will be towards the 5 storey southern elevation, with the six storey element set back a further 9m from the properties. I am of not of the view that the five storey element, set back at least 19.5m, from the closest rear garden on Rochestown Avenue, would be visually overbearing when viewed from this garden, or from other gardens further to the south. Furthermore, while there will be a visual impact from the development, given the quality of the proposed design, as discussed above in Section 10.4 above, I am not of the opinion that the visual impact will be negative, although I acknowledge that this is a not a



view shared by the occupants of No. 19 or by other surrounding residents, noting the contents of the observer submissions.

10.6.27. Furthermore, I am satisfied that the proposal is sufficiently set back from properties at Grangewood and Grangewood Court (the closest property, No. 18 Grangewood, is located approximately 55m from Block B) so as to ensure that it would be not visually overbearing when viewed from same.

10.6.28. In relation to the visual impacts from the nursing home, while there will be extensive views towards the proposal from same, I note the separation distance of 25m, and the urban context of the area, as such I am not of the opinion that the proposal would be so overbearing when viewed from the nursing home so as to seriously injure the visual amenities of this residence.

#### Noise

10.6.29. Noise impacts can occur from both the construction phase and operational phase. In relation to the impacts from construction, the Outline Construction Management Plan considers noise and vibration impacts and it is proposed that noise and vibration monitoring will be established on site throughout the project with a strict adherence to working hours.

10.6.30. In relation to impacts at operational stage, the main potential source of noise in my view, is that which could occur from the use of the roof terraces, and this has been raised as a concern by the Planning Authority and by observer submissions. I note the application is accompanied by a Student Accommodation Management Plan which sets out that the site will be managed by site managers who will operate on a 24/7 basis, with a management office at ground floor level. This sets out that there will be time restrictions on the use of the terrace areas. It is stated that there will be staff present on the site on a continual basis. The roof terrace at 5<sup>th</sup> floor level of Block B is approximately 20m from the nearest garden to the south. I note that screen guarding is provided to same which will support planting to a height to 2m. Given the separation distance from this roof terrace to the nearest garden, and the likely level of background noise resulting from its location within a busy urban area, close to the relatively heavily trafficked roads, and having regard to the proposed screening/planting, I am of the view that during the daytime and early evening at least, the potential for significant noise impacts is minimal. However, during the later

evening, there is greater potential for noise impacts, a result of the likely drop in background noise levels. As such, there is some potential in my view for late night noise disturbance from same, given the elevated nature of same. It is my view that the external terrace should not be accessible in the later evening hours, when there would be most potential for noise disturbance. This is also true of the two no. roof terraces on Block A, and while I note the separation distance from the nursing home, there is also potential for late night noise disturbance to result from same. As such I consider that it appropriate that the applicant should agree with the Planning Authority appropriate hours of access to the external roof terrace. This can be ensured by way of condition.

10.6.31. In conclusion then, subject to condition requiring the mitigation measures as set out in the Outline Construction Management Plan to be implemented, I am satisfied that noise and vibration impacts, at construction stage, on surrounding residential properties. Subject to a condition in relation to the access times to the roof terraces, I am satisfied that noise impacts from the operational stage of the development would not be significant and there would be no loss of amenity from same.

10.6.32. I note the Planning Authority's submission, and reasons for refusal, and I have considered the issues raised in the relevant sections of the report, including within this section. Notwithstanding the refusal recommendation, the Planning Authority have suggested that, in the event of the Board granting permission, a condition be imposed requiring *inter alia* the omission of the fourth and fifth floors of Block A and B, in the interests of residential amenity (Section 17 - Condition No. 2 of the Planning Authority's submission). This would result in Blocks A and B having a maximum height of 4 storeys. Given the need to develop sites such as these in an efficient manner, and given the considerations above as relates to design (Section 12.4), standard of accommodation (Section 12.5) and impacts on residential amenity (this section), I am not of the view that such a reduction in height is warranted or necessary in this instance.

## 10.7. **Traffic and Transportation**

10.7.1. The Planning Authority submission, in relation to Transport Issues, raise concerns in relation to the level of car parking proposed and refer to the car parking standard for Colleges of Higher Education/Universities and Hostel Accommodation which

requires 1 space per 15 student/bed spaces. It is stated that there is no provision for staff or visitor parking. The Planning Authority shares the concerns of local residents that the proposal would lead to car parking overspill on the surrounding residential area, church grounds and public roads where there are no car parking controls in place. It is set out that there is a car parking requirement of 108 no. spaces which may require a basement or undercroft car parking, and that this would require significant redesign of the proposal. Furthermore, the Planning Authority are not satisfied the proposal provides for a high quality interface with the public realm and raise concerns in relation to the quality of the boundary treatment.

- 10.7.2. Observer submissions state the proposal will result in adverse impacts on the surrounding road network and state that it will add pressure to the already over capacity public transport system. It is stated that there are limited bus services in the area. In relation to car parking, observer submissions have stated that there is insufficient car parking provided, and the proposal will lead to overspill parking on surrounding estates. It is stated that there is no provision of parking for the existing/retained uses adjacent to the site. It is set out that the proposal will have a detrimental impact on road safety. It is stated that it is difficult to assess if parking requirements have been met as the end users of commercial units have not been specified. It is stated that the proposed scheme is reliant on the bus and is not near a Luas or DART line and that residents already experience overspill parking. In terms of the parking survey, it is stated that the parking assessment took place during the Covid Related Lockdown and that the data is not accurate. It is stated that the 'Review of Parking Provision' document uses standards from the Draft Plan and that these are different from the current Plan which requires higher parking and that an additional 30 spaces would be required if the current plan was used. In relation to the TTA, it is set out that the census figures in relation to trips made by private car include 5-17 age group and these should be excluded. It is set out that data from UCD refers to a proportion of 20% of students using a private car. Traffic impacts during construction are raised as a concern.

#### Road and Public Transport Proposals

- 10.7.3. A 6 year road proposal is indicated running along Rochestown Avenue (Map 7 of the Development Plan refers). Supporting Policy ST25: Roads set out to secure improvements to the County road network – including improved pedestrian and cycle

facilities. A proposed Quality Bus/Bus Priority Route is also indicated along Rochestown Avenue.

- 10.7.4. Under the Bus Connect programme the B4 Spine Branch linking Sallynoggin to Blanchardstown via the City Centre is indicated traversing Rochestown Avenue (which will run every 15mins at peak times), with the P11 Peak Time Route running along Rochestown Avenue linking Shankill to Townsend Street (which will operate only at peak hours with a maximum of 4 services per hours during the 7am peak hour). The E2 Spine Route is proposed to run along Kill Lane/Kill Avenue which links Dun Laoaghaire to Charlestown Shopping Centre via the City Centre, which will run every 8-10 minutes at peak times). The P12 Peak Time Route runs from Dalkey to Townsend Street via Kill Lane/Kill Avenue, which will provide 2 services per hour at the 7am peak and 5am peak only.

#### Access/DMURS

- 10.7.5. Access to the proposed development will be from the location of the existing access from Rochestown Avenue.
- 10.7.6. A Traffic and Transport Assessment is included within Section 3 of the Engineering Planning Report. This sets out how the proposal complies with DMURS and sets out that that the public areas to the street frontage and within the proposed development have been designed to accommodate pedestrians and cyclists in accordance with the appropriate principles and guidelines set out in DMURS. It is further set out that footway widths are a minimum of 1.8m in compliance with DMURS guidance and that pedestrian priority will be maintained across vehicular access points. In terms of the proposed roads infrastructure, it is stated that corner radii at vehicular access points have been minimised with the use of tight radii assisting in traffic calming and enabling pedestrians to cross at these locations with as short a travel path as possible.
- 10.7.7. Section 3.3 of the Design Manual for Urban Roads and Streets considers permeability and legibility and states that *inter alia* designers should maximise the number of walking and cycle routes between destinations. Criteria 2 of the Urban Design Manual (the companion document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 ) considers connections and notes that attractive routes should be provided for pedestrians and

cyclists and that proposals should prioritise the pedestrian and cyclist in the layout and design of the public realm. In this regard I note also the proposal provides for increased permeability through the site with an enhanced cycle/pedestrian connection to the south of the site, linking with the north/south pedestrian/cycle connection through the site.

10.7.8. In relation to the road and car parking layout, I note that, by virtue of the scale of the proposal, the extent of the road network is limited. In relation to the parking, I acknowledge that the urban square as proposed is compromised to a degree by the extent of car parking, and I have recommended that the quantum is reduced so as to improve the quality and functionality of the square. The visual impact of the car parking that is remaining will be softened by the use of landscaping, and I am not of the view that that surface car parking will dominate the internal areas, and the proposal will provide a far more attractive public realm than is currently provided on the site.

#### Car and Cycle Parking

10.7.9. Table 8.2.3 sets out car parking standards for various use classes. There are no prescribed standards for student accommodation use, but the Planning Authority refer to the standard for Colleges of Higher Education/Universities and Hostel Accommodation which requires 1 space per 15 students, with an overall required provision of 108 no spaces, to serve the existing and proposed commercial uses on the site (90 to serve the existing and proposed commercial and 18 no. spaces to serve the student accommodation use).

10.7.10. I note that the site lies within a Public Transport Corridor as defined within the Section 8.2.4.5 of Development Plan (it lies within 500m of an existing bus priority scheme, as set out on Map 7 of the Development Plan). As such applying the current standards to the existing and proposed uses would result in a demand of maximum 51 no spaces.<sup>1</sup> There is no set standard for student accommodation use and I do not concur that applying the standard for Colleges of Higher Education/Universities and Hostel Accommodation to a student accommodation use is justified. The proposal does not provide any parking provision for the proposed student accommodation use and I am satisfied that this is acceptable, given the nature of the proposed use, the

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<sup>1</sup> Applying the higher parking standard of a café unit to the proposed commercial units.

site's proximity to the nearest Third Level institution and the proximity to a high frequency bus service that also serves other Third Level institutions, including University College Dublin. In addition, the nature of such managed accommodation is such that prospective residents are can be informed in advance that no car parking is provided, further limiting the any potential demand for car parking spaces from student residents.

10.7.11. I am cognisant of the existing parking provision on the site (90 spaces) which serves the existing uses on the site. The proposed development will provide for 34 no. car parking spaces, which are designed to serve the proposed commercial and existing/retained uses, with no provision for the student accommodation use. 3 no. spaces will be available for visitors to the student accommodation, and 1 no. space be reserved for a car club vehicle.

10.7.12. The application is accompanied by a parking survey and a review of parking provision within the Outline Travel Plan (Appendix B – PMCE Review of Parking Provision). This indicates the parking requirements for each of the retained and proposed uses, on and adjacent to the site, making reference to the standards within the Draft DLR Development Plan 2022-2028, and it is concluded that the total requirement is 36 no. spaces, applying these standards. The report then utilises the TRICS database to estimate the daily arrivals and departure trip rates for the existing betting shop, hairdressers and bar restaurant units, in order to determine the parking demand for same, which results in a slight reduced demand from the betting shop unit. It is concluded then there is a parking demand of 34 no. spaces arising from the retained and proposed uses on and adjacent to the site, making provision for existing lease agreements as relates to the duplex and hardware store uses.

10.7.13. I note the PA have stated that no actual parking survey was carried out in relation to the existing use of the car park and I concur that this may have been of some use when considering the demand from the retained uses within The Forge building. However, there is no evidence on file that the existing 90 no. spaces on the site reach capacity on a regular basis, notwithstanding that comments from the Planning Authority, and I concur with the assertions in the Outline Travel Plan that the uses on site would tend to attract local users, within walking distance, which is one of the intended objectives of the Development Plan, as relates to Neighbourhood Centre sites. The DLR Development Plan states that reduced car parking provision is a

useful tool in encouraging a modal shift to sustainable public transport/walking or cycling. I note the use of the Draft Standards within the Outline Travel Plan, and I concur with observer submissions that the current Plan should have been referred to. However, this does not fatally undermine the fundamental conclusions within the report, that the existing and proposed uses, on and adjacent to the site, would necessitate a parking provision that is less than currently on the site. Given the neighbourhood centre status of the site and the nature of the student accommodation proposed, I am of the mind that parking for the development should be minimal given the need to reduce reliance on private car use.

10.7.14. I have considered the quality of the proposed Urban Square above and I have concluded that a reduction of 4 no. spaces is required to provide an improve quality of public realm. This would result in a car parking provision of 30 no. car parking spaces on the site.

10.7.15. In addition to Table 8.2.3 of the development plan which sets out car parking standards, the Development Plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including:

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

10.7.16. In relation to the criteria as set out above, where reduced standards may apply, I note the following - The site lies within a neighbourhood centre, and is within 500m of the Deansgrange, which has a wide range of shops and services (although I note

that this is not defined as a 'Town Centre' within the Development Plan). It is approximately 400m from Deansgrange Business Park, which can be defined as a high density business area. It is adjacent to a bus stop that provides a high frequency bus service, with a travel time via the bus of approximately 12 mins to Dun Laoghaire, which is defined as a 'Major Town Centre' within the Development Plan. The proposal is for student accommodation which will not generate a parking demand (as discussed above) and for two number commercial units, for which the parking demand will be minimal. The parking demand for the public house will be reduced given its reduced floor area. There is a wide range of land uses in the area, with a large number of shops and services within walking distance of the site. Conversely, there is a large residential population in the surrounding area, within walking distance to the existing neighbourhood centre, and as such parking demand will be minimised as a result. It is not possible to park along Rochestown Avenue or Kill Avenue in the immediate vicinity. While there is little in the way of on-street parking controls in the church grounds or within the Grangewood or The Grange residential estates, should additional overspill car parking become an issue it could be managed by either the church or the planning authority through the introduction of more restrictive parking measures on the surrounding public roads.

10.7.17. Having regard to the above considerations, and having regard to the flexibility set out in the Development Plan as relates to parking standards, I am of the view that the overall provision of parking is appropriate and, on balance, I am satisfied that the provision of 30 no. spaces is acceptable in this instance, applying the reduction of 4 no. spaces that I have suggested be sought by way of condition.

#### Cycle Parking

A total of 330 no. cycle parking spaces are proposed at ground level at the main entrance to Block B. The Planning Authority state that additional cycle parking is required so as to comply with the cycle parking requirements for the residential element as set out in the Apartment Guidelines. I note that the standards set out therein are not applicable to student accommodation developments. I am of the view that it is likely that each student would have a maximum of 1 bike, with a requirement of 276 cycle spaces. I am of the view that the remaining 54 no. spaces are sufficient to serve the public house, the 2 no. commercial units and visitor cycle parking. I note also the limited surface area available to accommodate additional cycle parking, and



it would be necessary to encroach into the public realm in order to accommodate additional parking stands, which is both unwarranted and unnecessary, in my view.

Impacts on the surrounding road network.

10.7.18. A Traffic and Transport Assessment is included within Section 3 of the Engineering Planning Report. This does not set out an analysis of likely impacts on the surrounding road network/relevant junctions. While observer submissions have raised concerns in relation to traffic congestion in the area, I am of the view that, given the substantial reduction in the number of parking spaces proposed on the site, the impact on the surrounding road network will be reduced accordingly. I am of the view that this proposed development will not add to this congestion, given the discussion above.

Existing car parking

10.7.19. I note that the proposal intends to reduce the extent of, and reconfigure the existing parking on site. The parking spaces proposed for visitor parking and to serve the proposed public house and proposed commercial units are considered to be ancillary to these proposed uses and are therefore not considered as an 'other use' as defined by Planning and Development (Housing) and Residential Tenancies Act 2016. Furthermore, I am not of the view that the reconfigured car parking that is intended to serve the existing residential and commercial uses on the site, constitutes an 'other use', as defined by the Act. In any event, even if the 14 no. spaces intended to serve the existing uses on the wider site were considered to be an 'other use' as defined by the Act, the combined area of same (approximately 250 sq. m. assuming a standard parking space area of 10 sq. m and accounting for circulation space) would fall well under the maximum threshold of 15% of the gross floor space of the development and well under the maximum threshold of 4,500 sq. m., as per section 3 of the 2016 Act.

**10.8. Ecology/Trees**

10.8.1. The Planning Authority have not raised any concerns in relation to Ecology or in relation to the impacts on trees.

10.8.2. Observer submissions stated that there is inconsistencies in terms of tree removal and that the tree survey appears to have been undertaken after the proposals were well advanced. The accuracy of the tree survey is questioned. It is also contended

that one bat survey is not adequate and that the ecological fieldwork and bat survey were only carried out 2 months prior to lodgement of the application. The impact on the Kill-Of-The-Grange Stream is highlighted as a concern and it is already listed 'at risk'. Generally it is stated that the proposal is contrary to policies related to biodiversity (LHB19; LHB23; LHB 24) as set out in the Development Plan.

- 10.8.3. The application is accompanied by an Ecological Impact Assessment. This sets out that the habitats on site consist of Buildings and Artificial Surfaces (BL3), Hedgerows (WL1), Stones and other stonework (BL1), Flower beds and borders (BC4) and Ornamental/Non-native Scrub (WS3). In relation to bats, the Bat Report (included in Appendix V of the EclA) states that the existing public house structure was categorised as being of 'negligible' bat roost potential. The hedgerows and stone wall habitats on site are considered to be of local importance (lower value) with the remaining habitats being of negligible ecological value. Two species of medium impact invasive species were recorded on the site. Red fox was considered to be the only mammal that may frequent the site and it is set out within the EclA that the site is not suitable for, or does not have any pathways that could result in impacts on any other mammals. In relation to birds, 6 species were identified within the vicinity of the site, with a suspected Robin nest located within a tree stump on the site. No red listed species were recorded at the site. One amber listed species (Herring Gull) was recorded flying over the site but the site offers little suitable breeding habitat for same.
- 10.8.4. Specifically in relation to bats, one tree of moderate roost potential was observed in the south-eastern corner of the site. Two species of bat were detected during the bat survey. The EclA notes that this low level of bat activity may be due to the existing lighting at the site, its highly urban nature and the generally poor quality habitat.
- 10.8.5. Section 6 of the EclA sets out potential impacts of the development. In terms of impacts on non-European designated sites, it is noted that the nearest such site is the 'Dalkey Coastal Zone and Killiney Hill pNHA', which is located c2.3km north-east of the proposed development, with a weak indirect link to same via the surface water network, which drains to the Kill-O-the Grange/Deansgrange Stream and via the Shanganagh-Bray WWTP, which will treat foul water from the site, and which discharges treated wastewater into Killiney Bay. Impacts on this site are ruled out, due to the nature of the habitats and species on site, the former which are largely

cliff based and the latter terrestrial plant species, with surface water not impacting on same. Treated wastewater was not considered to result in any significant impacts on the pNHA sites. In relation to impacts on habitats, the provision of landscaping, including an overall increase in tree cover on the site, will result in an overall positive, permanent, moderate impact. Loss of potential roosting habitat for bats as a result of tree removal on site is noted and potential noise disturbance to birds are noted in the EclA. The potential for bird strike is considered in the report and it is concluded that the site is not located in a sensitive area in terms of bird flight paths and does not provide suitable ex-situ habitat for any species of conservation interests associated with any European Site (see discussion in Section 12). In addition the height of the development at 6 storeys (a max of 25.85 m in height), was not deemed to be a risk, with migrating species such as swans and geese flying at far greater heights, up to 750m (I note the EclA refers to a height of 6 storeys above podium level which is incorrect). In terms of cumulative impacts, no developments with the potential to result in likely significant in-combination effects to any ecological sensitivities were identified.

- 10.8.6. Section 7 sets out Mitigation and Enhancement Measures, which includes appropriate timing of vegetation removal, appropriate tree-removal measures, noise control measures, measures to further minimise risk of bird strike, provision of bat boxes and measures to minimise light spill.
- 10.8.7. It is set out that, provided the mitigation measures proposed are implemented in full, there will be no significant negative impact on ecology as a result of the proposed development. Furthermore, concluded that the proposed development will have an overall positive impact on the ecology at the Site through the increased provision and enhancement of habitats on the site. In terms of the conclusions set out in the EclA, as relates to impacts, I generally concur with same. In relation to the concerns raised by observers I am satisfied that sufficient surveys have been carried out, both in relation to general ecology and in relation to bats, and overall I am satisfied that sufficient survey work was carried out in order to be able to arrive at the conclusions set out in the EclA. I have discussed the issue of Natura 2000 sites specifically in Section 12 of this report. There is no evidence that there will be adverse impacts on bats, birds of conservation concern, protected mammals such as badger or otter, or on any other species or habitat of conservation concern, subject to the mitigation

measures being put in place. No adverse impacts on the surface water network, including the Kill O The Grange Stream will result from the proposed development (see further discussion of same in Section 12 of this report).

- 10.8.8. In conclusion then, I consider that, subject to the recommendations of the appraisal being carried out, there would no significant ecological adverse impact arising from either the construction phase or from the operational phase of the development and I concur that positive impacts will result from the provision of additional habitats on the site. Specifically in relation to bats, I am satisfied that, subject to the measures as outlined in the EclA, as relates to appropriate lighting and provision of bat boxes, being implemented there will be no adverse impacts on bats as a result of this development.

#### Trees

- 10.8.9. An Arboricultural Report has been submitted with the application, which includes a Tree Survey, an Arboricultural Impact Assessment and an Arboricultural Method Statement. In relation to the trees on the site, it is noted that the tree cover is largely located around the perimeter of the existing car park, and along the southern and eastern boundaries, there are several semi-mature trees growing within a very narrow planting strip. A group of 3 no. elm trees are located in the southeast corner in good condition. Other trees on site are limited in terms of soil volume by virtue of limited planting beds. It is set out that the proposed development will require the removal of all trees and shrubs located on the site. Several of these trees are also required to be removed for arboricultural reasons due to their poor condition although the proposal does involve the removal of three no. trees of moderate quality (3 no. elm trees) in order to facilitate the development, specifically drainage runs. It is stated within the report that this will have some impact on the surrounding area, but visually these 3 no. elm trees are not overly prominent in the wider local area. Mitigation measures are set out in the report and includes the implementation of a landscape plan which includes new tree and shrub planting.
- 10.8.10. In relation to the concerns raised by observer submissions, I do not have any evidence that the tree survey is fundamentally inaccurate and I am satisfied that the existing tree growth on site is in line with that stated in the survey. I am satisfied that the removal of the existing trees is necessary to facilitate the development and the

impacts resulting from same would only have minor impacts in terms of both biodiversity and visual impacts. The proposed landscaping measures will have a positive impact on both biodiversity (see discussion above) and on visual amenity.

## 10.9. Flood Risk

- 10.9.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires 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”.
- 10.9.2. The Planning Authority have not raised any concerns in relation to flooding. Observer submissions have cited drainage issues in the area and have stated that there is flooding issues after periods of heavy rain.
- 10.9.3. The applicants have submitted a Site Specific Flood Risk Assessment. This noted that the proposed development site is within the catchment of the Deansgrange Stream (Kill-O-The-Grange Stream). Relevant records, including CFRAM flood maps, do not indicate any flooding within the development site or in the proximity of the site for the 0.1% AEP and 1% AEP. The SFRA states that the site is not subject to tidal, fluvial or pluvial flooding, and there is no record of previous pluvial flooding events on the site. Reference is made to the surface water management proposals which reduce the risk of flooding from onsite sources (see further discussion of same in Section 10.10 below). The risk of flooding from groundwater and from human or mechanical factors is also deemed to be low. While the SFRA does not consider the potential for foul water flooding, which is cited as a concern in a number of observer submissions, I note that Irish Water have not raised concerns in relation to foul water capacity, and as such it can be concluded that the risk of foul water flooding is low.
- 10.9.4. In relation to the conclusions of the report, I am satisfied that the site is not subject to tidal or fluvial flooding or groundwater flooding. In relation to surface water flooding, from overland flow, the report states that no such flooding has been recorded on site. Observer submissions have stated the area is subject to overland flooding during pluvial events. I have examined the mapping available on the OPW run website

'Floodinfo.ie' and this does not indicate any previous flooding events in the vicinity of the site. The Planning Authority have not raised any concerns in relation and the Drainage Division of the Planning Authority have stated that the conclusions of the Site Specific Flood Risk Assessment are accepted.

- 10.9.5. I am satisfied that the site is not subject to tidal, pluvial or fluvial flooding, and in relation to the operational stage of the development I am satisfied that the proposed surface water management measures outlined in the Engineering Report and associated drawings, are sufficient to ensure that no residential properties on the site or adjacent to the site will be at an increased risk of pluvial flooding.
- 10.9.6. In conclusion, having regard to the fact that the site lies within Flood Zone C, the lack of an evident history of flooding on the site itself and having regard to the surface water management proposals as set out in the application documents, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions.

#### 10.10. **Site Services**

- 10.10.1. Irish Water have not raised any objections to the foul water or water supply proposals as set out in the application documentation. The Planning Authority have not raised an in principle objection to the surface water proposals for the site, but have raised some concerns in relation to the proposed volume of the attenuation system, run-off rates and the soil type chosen for the site. It set out that these concerns can be dealt with by way of condition.

##### Water Supply

- 10.10.2. The proposed development will be served by a water supply connections to the existing watermain in Rochestown Avenue and existing watermain in Kill Avenue. Irish Water have not cited any concerns in relation to same.

##### Foul

- 10.10.3. The proposed development will have separate foul and surface water drainage networks which will discharge off site to separate existing foul and surface water systems. It is proposed to connect the foul drainage discharge from the proposed development to a realigned 225 mm diameter foul sewer located to the south of the proposed development. Irish Water have not cited any concerns in relation to same.

## Surface Water

10.10.4. In relation to surface water drainage the proposed site is located in the Deansgrange River Storm Level 1 Catchment, with surface waters in this catchment draining to the Kill-O-The Grange Stream/Deansgrange Stream, prior to the outflow of same into Killiney Bay, at a point approximately 4.6km to the south-east of the site. A new connection to the realigned existing surface water sewer located to the south of the site will be provided. The proposed surface water drainage network will comprise of a piped gravity system, which will discharge restricted surface water run-off from the site to the realigned surface water sewer. The rate of run off is reduced by a combination of green roofs, permeable paving, underground cellular storage, bio-retention areas and tree pits, as well as a flow control device. SUDS measures include green roofing, soft landscaping in the form of bioswales and permeable paving across proposed car park areas. The attenuation storage volume, provided by the underground cellular storage, has been designed to be sufficient up to the 1 in 100 year event, and has accounted for additional rainfall depth (20%) as a result of climate change.

10.10.5. A Storm Water Audit (Surface Water Audit) has been submitted with the application. It is stated within the Engineering Report that, where feasible, the comments made therein have been taken on board and are included within the design of the surface water drainage system. It would have been preferable if the Engineering Report provided additional detail in relation to how the design has responded to the comments within the Storm Water Audit. However I am satisfied that the principle of the proposed design is appropriate for the site, and any detailed technical requirements, such as those raised in the Drainage Report from the Planning Authority, can be agreed with the Planning Authority, and I recommend a standard condition be imposed on any permission, should the Board be minded to grant permission.

## 10.11. **Other Issues**

### Oral hearing Request

10.11.1. Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016 provides that An Bord Pleanála may in its absolute discretion hold an oral hearing, and in making its decision, 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 shall only hold an oral hearing if there is a compelling case for such a hearing.

- 10.11.2. The submission from Elaine Sheehy and Colin Polykett requests an Oral Hearing although no specific grounds are requested. The submission raises a number of matters including omissions in the daylight/sunlight report and impacts in relation to overlooking, visual impacts and noise. Further issues raised include concerns in relation to the design and height of the proposal, public realm provision and the level of car parking proposed, including the use of parking standards within the Draft Development Plan 2022-2028 within the supporting documentation. Impacts on the existing right of way, the existing amenity space at the rear of houses on Rochestown Avenue and the impact on the development potential of the adjoining site is also raised within the submission.
- 10.11.3. A further submission from the Union of Students of Ireland (USI) also requested an oral hearing. They supported the proposal for student accommodation, but expressed concerns that the amenities such as gym, cinema room, etc, reduced affordability of such accommodation for most students.
- 10.11.4. In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing, and I have considered all of the issues raised in the above submission within the main body of my report. I do not consider that there are any exceptional circumstances or a compelling case for a hearing in this instance. I therefore recommend that the oral hearing request not be acceded to.

#### Property Values

- 10.11.5. A number of submissions have stated the proposal will result in a reduction in property values. This contention is not supported by any evidence of same and I do not consider the Board has sufficient evidence before it to conclude that the proposal would have an adverse impact on property values.

#### SHD process

- 10.11.6. In relation to observer and Elected Member representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework



and until that framework is expunged or replaced, it forms the legitimate process for the determination of this application.

#### 10.11.7. Archaeology

10.11.8. The Architectural and Archaeological Heritage Impact Assessment includes *inter alia* an Archaeological Assessment of the site. The nearest recorded monuments to the site are a Church (DU023-015001), located 206.7m from the site, and a Graveyard (DU023-015002), located 162.7m from the site. The report concludes that there is nothing known of archaeological interest on the site. The nearest sites of interest are at St Fintan's, Church, graveyard and archaeological features, at a distance from the site, as noted above. In relation to previous investigations in the area, no stray finds were recovered from the immediate vicinity of the site. Notwithstanding same, I am recommending that a standard archaeological monitoring condition be attached, given that no test trenching has been carried out, and while the site is dominated by surface car parking, there is potential that undisturbed archaeology remains on the site.

#### 10.12. **Planning Authority's Recommended Reasons for Refusal**

10.12.1. The Planning Authority Recommend that the proposed development is refused permission for 4 no. reasons as set out below.

*Having regard to the suburban location and character of the area, Appendix 9 Building Height Strategy of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities (2018); it is considered that the proposed development, by reason of its overall scale, height, massing and built form, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposed development is considered to be contrary to Section 8.3.2 Transitional Zonal Areas, Policy UD1 and Appendix 9 (Building Height Strategy) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would appear visually overbearing and obtrusive and would thereby materially contravene the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.*

10.12.2. I have considered all of the issues raised above within Sections 10.4 and 10.6 (as relates to design, including height, impact on the character of the surrounding area and visual impacts/visual amenity) and have considered the issue of material contravention in Section 10.13 below)

*The application site is located on lands which are zoned land use zoning objectives 'NC' and 'A' in the Dun Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development, by reason of the excessive quantum of residential accommodation proposed relative to the quantum of commercial and other uses proposed, is considered to represent an unbalanced and disproportionate use of lands within a neighbourhood centre, which if permitted would be seriously injurious to the Neighbourhood Centre zoning objective and the retail hierarchy. The proposed development would thereby be contrary to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

10.12.3. I have considered the mix of uses proposed, and the implications of the neighbourhood centre zoning and the retail hierarchy, in Section 10.3 above.

*The proposed development, by reason of its overall scale, massing, built form and its proximity to adjoining site boundaries, would adversely impact on the amenities of existing adjacent properties by way of overlooking, and would be visually overbearing when viewed from existing adjacent properties. The proposed development would give rise to adverse overlooking and daylight impacts on adjoining residential properties and would significantly impact on these properties in this regard. Accordingly, the proposed development would be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

10.12.4. I have considered the issue of visual impacts in Sections 10.4 and 10.6 above. I have considered the issues as relates to overlooking and daylight impacts in Section 10.6 above.

*Having regard to the intermediate urban location of the site, it is considered that the proposed development, by reason of the inadequate number of car parking spaces and bicycle spaces proposed to serve the future occupants and visitors to the development, may result in car parking overspill on surrounding residential roads.*

*The proposed development would, therefore, seriously injure the amenities of properties in the vicinity and, as such, would be contrary to the Dun Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

10.12.5. I have considered the issue of car parking and cycle parking in Section 10.7 above and I am satisfied that an appropriate quantum of car parking will be provided on site, taking into consideration also my recommendation to reduce the no. of spaces by 4 no. spaces for the reasons set out in Sections 10. 4 and 10. 7 above.

#### Conclusion on PA Submission

10.12.6. Having regard to the foregoing, I am not recommending to the Board that they uphold any of the Planning Authority's recommended reasons for refusal.

#### **10.13. Material Contravention**

10.13.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed 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 (c) of same 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'. As noted in Section 10.2, I do not consider that the proposal materially contravenes the zoning objectives that pertain to the site.

10.13.2. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section

28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

### Height

- 10.13.3. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dun Laoghaire Rathdown Development Plan 2016-2022 in relation to the matters of (i) Height and (ii) Part V provision.
- 10.13.4. In relation to height, the Material Contravention Statement sets out that applying the criteria as set out in the Development Plan as relates to height, the proposal may be considered consistent with the Development Plan, including the Building Height Strategy. However in the interests of completeness the issue of height is included within the Material Contravention Statement.
- 10.13.5. The Planning Authority's recommended reason for refusal No. 1 refers to *inter alia* the height of the proposed development and it stated that the proposal would materially contravene the Dun Laoghaire-Rathdown County Development Plan 2016-2022.
- 10.13.6. Having regard to the detailed considerations above, I am of the view that the proposal complies with policy as relates to building height as set out in the Dun Laoghaire Rathdown Development Plan 2016-2022, and as such it can be argued that it does not represent a material contravention of same. However, as the Planning Authority refer to Appendix 9 (Building Height Strategy) in recommended reason for refusal No. 1 and have included in this recommended reason for refusal a reference to a 'material contravention' of the Development Plan, it is considered that if the Board wished to consider a grant of permission that it should be done so having regard to the provisions of s.37(2)(b).
- 10.13.7. I have set out my considerations of the proposal, as relates to the relevant criteria of 37(2)(b) of the Planning and Development Act, below.
- 10.13.8. In relation to the matter of strategic or national importance, (criteria 37(2)(b)(i) of the PDA 2000), the current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of

a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness', 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, and sought to expedite decision making around developments such as that proposed on this site in response to the housing crisis. I note the proposal represents the regeneration of an important site and makes a contribution to the housing stock, of some 276 no. student bedspaces, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery.

10.13.9. With reference to section 37(2)(b)(iii) of the Act, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO 13 refers). Also of relevance, objectives 27, 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 regional planning guidelines for the area and Section 28 Guidelines, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs.

10.13.10. In relation to relevant Section 28 Guidelines, given that the potential material contravention in this instance relate to the matters of height, those of most relevance are the Urban Development and Building Height Guidelines (2018), issued under Section 28 of the PDA 2000 (hereinafter referred to as the Building Height Guidelines). The Building Height Guidelines state that increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines. In principle, given the locational characteristics of this site, within a neighbourhood centre well served

by public transport, increased heights on this site are supported by the Building Height Guidelines, subject to a detailed consideration of the design merits of the proposal, including a consideration of the proposal in relation to the criteria as set out in Section 3.2 of the Guidelines. I have considered the merits, or otherwise, of the design of the proposed development, within Section 10.4 of this report, including a consideration of the criteria in Section 3.2 of the Height Guidelines and I am satisfied the proposal complies with same.

- 10.13.11. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Dun Laoghaire-Rathdown Development Plan 2016-2022, as relates to matter of height, in principle, it can do so having regard the criteria of 37(2)(b)(i) and (iii).

#### Part V

- 10.13.12. In relation to Part V, the Material Contravention Statement refers to Appendix 2 Interim Housing Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 which states;

*'No social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a Third Level Institution. In all other instances of student accommodation, the standard 20% social housing requirement will apply.'*

- 10.13.13. Within the Material Contravention Statement, reference is also made to Policy RES2: Implementation of Interim Housing Strategy (specifically Section 7.6 of same) which states *inter alia* that;

*'Specific exemptions to Part V where a reduced social/ affordable element may be acceptable are:*

*Third level student accommodation of the type that has/or would have otherwise qualified for tax relief under Section 50 of the Finance Act 1999 (Refer also to Policy RES12).'*

- 10.13.14. It is set out within the Material Contravention Statement that the proposed scheme has been designed to meet the criteria outlined within 'The Guidelines for Residential Developments for 3<sup>rd</sup> Level Students, Section 50 of the Finance Act

1999' and this is demonstrated in the supporting Housing Quality Assessment submitted with the application.

- 10.13.15. The Material Contravention Statement sets out that the Board may consider the proposed development materially contravenes the Development Plan notwithstanding the provisions of Policy RES2.
- 10.13.16. The report from the Housing Department of the Planning Authority states that It is the Council's position that student accommodation provided 'off-campus' is subject to Part V obligations.
- 10.13.17. I am of the view that the proposal meets the standards as set out within The Guidelines for Residential Developments for 3<sup>rd</sup> Level Students, Section 50 of the Finance Act 1999 and as such, qualifies for an exemption to Part V, given the flexibility or exemptions allowed for under Policy RES2. However Appendix 2 does not cross reference Policy RES2 and as such the non-provision of Part V in this instance could, in fact, constitute a material contravention of the provisions of Appendix 2 of the Development Plan. I note also that the Board has previously considered that the non-provision of Part V as part of a student development did in fact constitute a material contravention of the Dun Laoghaire Development Plan (2016-2022).<sup>2</sup> Should the Board be of the view that the proposal materially contravenes the provisions of Appendix 2 of the Interim Housing Strategy Policy, I have set out my considerations of the proposal, as relates to the relevant criteria of 37(2)(b) of the Planning and Development Act, below.
- 10.13.18. In relation to the matter of conflicting objectives, or objectives not clearly stated in the development plan, I note that the provisions of Policy RES2, which allows for specific exemptions to Part V where a reduced social/ affordable element is acceptable, when third level student accommodation of the type that has/or would have otherwise qualified for tax relief under Section 50 of the Finance Act 1999. The proposed scheme has been designed to meet the criteria outlined within 'The Guidelines for Residential Developments for 3<sup>rd</sup> Level Students, Section 50 of the Finance Act 1999', and this is demonstrated in the supporting Housing Quality Assessment submitted with the application and, as such, an exemption can be applied in this instance. In my view, the flexibility that that is inferred within Policy

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<sup>2</sup> ABP Refs 309430-21 and 308353-20.

RES2 conflicts with the inflexibility of the wording as set out in Appendix 2 of the Development Plan. As such I am of the opinion that, should the Board be minded to materially contravene the Development Plan, in relation to Part V provision, it can be so, having regard to 37(2)(b)(ii).

10.13.19. With reference to section 37(2)(b)(iv) of the Act, I note that since the making of the Dun Laoghaire Rathdown Development Plan 2016- 2022, the Board did not apply Part V requirements for off campus student accommodation developments at a site at Our Ladys' Grove, Goatstown, Dublin 14 (ABP-309430-21), at the Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18).

10.13.20. Having regard to the recent permissions granted in the area since the making of the plan the proposed material contravention to Section 7.6 of Appendix 2 as it relates to Part V Social / Affordable Housing is justified by reference to section 37(2)(b)(iv) of the act.

10.13.21. In conclusion, should the Board be minded to invoke the material contravention procedure, as relates to matters of height and Part V provision, I am of the opinion that;

- In principle, meets the criteria of 37(2)(b)(i), as the development is strategic in nature and relates to matters of national importance (the delivery of housing);
- The criteria of 37(2)(b)(ii) apply as there are conflicting requirements set out in the Development Plan (Policy RES2 and Appendix 2 refer) of the Development Plan as relates to the requirements for Part V provision within Student Accommodation developments;
- The proposal meets the criteria of 37(2)(b)(iii), as increased heights and densities are supported by national and regional policy, and by relevant Section 28 Guidelines, namely the Urban Development and Building Height Guidelines (2018);
- The proposal meets the criteria of 37(2)(b)(iv), as relates to permissions granted in the area.



10.13.22. Specifically, should the Board be minded to invoke the material contravention procedure, as relates to the provisions of the Dun Laoghaire-Rathdown Development Plan pertaining to height, I consider that, in principle, the provisions of Section 37(2)(b)(i) and (iii) have been met, and in this regard I consider that the Board can grant permission for the proposal, should it be minded to do so.

10.13.23. Should the Board be minded to invoke the material contravention procedure, as relates to the provisions of the Development Plan pertaining to Part V provision relating to student accommodation, I consider that the provisions of Section 37(2)(b)(ii) and (iv) have been met, and in this regard I consider that the Board can grant permission for the proposal, should it be minded to do so.

## 11.0 Environmental Impact Assessment (EIA) Screening

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

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

\*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

11.1.2. 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.

11.1.3. It is proposed to construct 276 student bedspaces, 2 no. commercial units, a public house and associated site works. While I note that student bedspaces are not defined as 'dwellings', notwithstanding, the number of bedspaces proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.483ha and hence falls below the area threshold that applies to a business

district and that applies to other areas. The site is a brownfield site, located within an existing neighbourhood centre, where there is existing residential and commercial uses. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. An AA Screening Report has been submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives and I concur with the conclusions of same. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dun Laoghaire Rathdown County Council upon which its effects would be marginal.

11.1.4. 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 criteria set out in schedule 7A of 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 environmental impact assessment. The submitted EIA Screening Report (dated September 2021) includes the information required under Schedule 7A to the planning regulations. In addition, 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 demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including *inter alia*:

- Engineering Planning Report
- Student Demand and Concentration Assessment

- Site Specific Flood Risk Assessment
- Outline Construction Management Plan
- Construction & Demolition Waste Management Plan
- Planning Report & Statement of Consistency
- Landscape Management and Maintenance Plan
- Arboricultural Report
- Ecological Impact Assessment Report
- Luminaire Data Sheets V1
- Provisional BER/Part L – Report
- Townscape and Visual Impact Assessment
- Exterior Lighting Proposal
- Building Lifecycle Report
- Energy and Sustainability Report
- Housing Quality Statement
- Accommodation Schedule
- Wind and Microclimate Modelling
- Daylight & Sunlight Assessments
- Outline Travel Plan
- Stage 1 Surface Water Audit
- Architectural and Archaeological Heritage Impact Assessment
- Appropriate Assessment Screening Report
- Statement of Response to Pre-Application Consultation Opinion
- Material Contravention Statement
- Quality Audit (Stage 1) including Road Safety Audit
- Outline Operational Waste Management Plan

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

- An Appropriate Assessment Screening Report and an Ecological Impact Assessment Report have been submitted with the application, in support of the Habitats Directive (92/43/EEC).
- An Appropriate Assessment Screening Report and an Ecological Impact Assessment Report, an Outline Construction and Environmental Management Plan, an Engineering Planning Report and a Site Specific Flood Risk Assessment have been submitted, in support of the Water Framework Directive (2000/60/EC).
- An Outline Construction and Environmental Management Plan and An Architectural Design Statement has been submitted, in support of the Environmental Noise Directive (2002/49/EC)
- An Outline Construction and Environmental Management Plan and an Outline Travel Plan have been submitted, in support of the Clean Air for Europe (CAFE) Directive (Directive 2008/50/EC).
- A Site Specific Flood Risk Assessment and Engineering Planning Report have been submitted, which was undertaken in response to the EU Floods Directive (2007/60/EC).

11.1.6. In relation to other relevant EU legislation, the Statement sets out the following:

- An Ecological Impact Assessment Report has been submitted, in support of the Bern and Bonn Convention, and in support of the Ramsar Convention;
- An Outline Construction and Environmental Management Plan and Outline Operational Waste Management Plan have been submitted in support of Directive EU 2018/850 on the landfill of waste and in support of Directive 2008/98/EC;

- An Outline Construction and Environmental Management Plan and An Architectural Design Statement has been submitted, in support of the Directive 2000/14/EC on noise emission by equipment for use outdoors;
- A Building Lifecycle Report has been submitted, in support of Directive 2012/27/EU on energy efficiency, in support of Regulation EU 2018/842 relating to Greenhouse Gas emissions, in support of Directive EU 2018/2001 on the use of energy from renewable sources and in support of Regulation EU no. 517/2014 on fluorinated greenhouse gases.

11.1.7. In addition to that set out in the applicant's 299B Statement I note the following:

- An Appropriate Assessment Statement and an Ecological Impact Assessment, have been submitted with the application in support of the Birds Directive (2009/147/EC);
- SEA Environmental Reports for the Dun Laoghaire Rathdown Development Plan 2016-2022;
- SFRA of the Dun Laoghaire Rathdown Development Plan 2016-2022;

11.1.8. I have taken into account the above documentation when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the nature and scale of the project, the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Regulations has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR

based on the above considerations, and as per the conclusions of the EIA screening assessment in Appendix A of this report.

## 12.0 Appropriate Assessment

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

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

- 12.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 12.1.3. The applicant has submitted an Appropriate Assessment Screening Report as part of the planning application. The Screening Report has been prepared by Enviroguide Consulting and is supported by an Ecological Impact Assessment (EclA) also prepared by Enviroguide Consulting
- 12.1.4. The Report provides a description of the proposed development which is as described in Section 3 of this report. In relation to foul water proposals, foul water from the site will drain to the Shanganagh Trunk Sewer prior to treatment at the Shanganagh WWTP which outfalls to Killiney Bay, once treated. As outlined in Section 10 of this report, the development will be serviced by separate foul and surface water drainage networks, which will discharge off site to separate foul and surface water systems, located along Pottery Road, to the south-west of the site. A

new foul connection will be provided to a realigned existing foul sewer located along the southern boundary of the site.

12.1.5. In relation to surface water drainage, as described in Section 10.10 of this report, the proposed is located in the Deansgrange River Storm Level 1 Catchment, with surface waters in this catchment draining to the Kill-O-The Grange Stream/Deansgrange Stream, prior to the outflow of same into Killiney Bay, at a point approximately 4.6km to the south-east of the site. A new connection to the realigned existing surface water sewer located to the south of the site will be provided. The proposed surface water drainage network will comprise of a piped gravity system, which will discharge restricted surface water run-off from the site to the realigned surface water sewer. SUDS measures include green roofing, soft landscaping in the form of bioswales and permeable paving across proposed car park areas.

12.1.6. In terms of hydrogeology, the site and surrounding area are located within the 'Wicklow' groundwater body, which has an overall Water Framework (WFD) status of 'Good'. Groundwater vulnerability is listed as 'Low'. In relation to Hydrology, the nearest water body to the site is the Kill-O-The-Grange Stream, which flows in a south-easterly direction c376m to the west of the site. The stream is noted as being 'Poor' and 'At Risk' under the WFD. This discharges to the Irish Sea at Killiney Bay approximately 4.6km to the south-east of the site. The Monkstown Stream is located c662m to the north-west of the site and flows in a north/north-east direction before discharge into Dublin Bay at Dun Laoghaire Pier, approximately c1.8km to the north of this site. The risk status of this waterbody is 'Under Review'.

12.1.7. A Zone of Influence (ZOI) is set out in the Screening Report, utilising initially a 15km radius from the site. It was not considered that any sites beyond this 15km radius fell within the ZOI. It is set out that a total of 18 no. European Sites fell within the 15km radius and these are set out below.

- South Dublin Bay and River Tolka Estuary SPA (004024) c1.7km north
- South Dublin Bay SAC (000210) c1.7km north
- Dalkey Islands SPA (004172) C4.1km east
- Rockabill to Dalkey Island SAC (003000) C4.4km east

- North Bull Island SPA (004006) C7.2km north
- North Dublin Bay SAC (000206) C7.2km north
- Ballyman Glen SAC (00713) 8km south
- Knocksink Wood SAC (000725) C8.2km south-west
- Wicklow Mountains SAC (002122) C9.3km south-west
- Wicklow Mountains SPA (004040) C9.6km south-west
- Howth Head Coast SAC (000202) C10.2km north-east
- Bray Head SAC (00714) 10.3km south-east
- Howth Head Coast SPA (004113) 11.3km north-east
- Baldoyle Bay SAC (000199) C12.7 km north
- Baldoyle Bay SPA (004016) C12.7km north
- Glenasmole Valley SAC (001209) C13.9km south-west
- Ireland's Eye SPA (004117) 14.3km north-east

12.1.8. Impact pathways were then analysed and the only impact pathway determined is to the Rockabill to Dalkey Island SAC, located 4.4km east of the site noting that a weak indirect hydrological connection exists between the Site and the SAC via the receiving surface water network, which drains to the Kill-O-the-Grange/ Deansgrange Stream and outflows at Killiney Bay ca.1.5km west of the SAC. The AA screening report concludes that the application, whether individually or in combination with other plans and projects, will have no impacts upon this site, nor any of the other Natura 2000 sites identified within the Zone of Influence and that the application does not need to proceed to Stage 2 of the Appropriate Assessment process.

12.1.9. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 AA Screening



12.1.10. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

#### Brief Description of the Development

12.1.11. The applicant provides a description of the project in Section 3.2 of the Screening Report. The development is also summarised in Section 3 of this Report.

#### Site Description

12.1.12. The applicant's Screening Report notes that field surveys were carried out on 7<sup>th</sup> July 2020. While not set out in the Screening Report, the EclA notes that the habitats on site consist of Buildings and Artificial Surfaces (BL3), Hedgerows (WL1), Stones and other stonework (BL1), Flower beds and borders (BC4) and Ornamental/Non-native Scrub (WS3). Red fox was considered to be the only mammal that may frequent the site and the site is not suitable for, or does not have any pathways that could result in impacts on any other mammals. In relation to birds, 6 no. species were identified within the vicinity of the site, with a suspected Robin nest located within a tree stump on the site. No red listed species were recorded at the site. One amber listed species (Herring Gull) was recorded flying over the site but the site offers little suitable breeding habitat for same.

#### Submissions and Observations

12.1.13. The Planning Authority have not raised any issues as relates to Appropriate Assessment, nor have objections being raised in relation to surface water proposals. Irish Water have not raised any issues in relation to foul water proposals, nor have Irish Water cited capacity constraints as relates to foul water drainage or treatment.

12.1.14. The IFI has stated that appropriate measures must be put in place to ensure that there is no adverse impacts on the Kill-O-The Grange Stream, and it needs to be ensured that sufficient foul water capacity is in place to serve the development.

12.1.15. An Taisce have stated that the site is located in the buffer zone of the SPA from Booterstown to Dun Laoghaire and that more comprehensive bird studies would have been welcome. The risk of bird collisions vary by species and it is stated that the proposed buildings pose a danger to birds.

12.1.16. Observer submissions have not raised any issues as relates specifically to impacts on European Sites but more generally concerns are raised in relation to impacts on the Kill-O-The-Grange Stream, and it is noted that its status is 'At Risk'. General concern is raised in relation to the timing of the ecological surveys, noting that they were only carried out two months prior to the submission of the application.

Zone of Influence

12.2. Section 3.5 of the Screening Report sets out the assessment methodology in determining those Natura Sites within a Zone of Influence which I have described above. A summary of the 18 no. European Sites that occur within a 15km radius of the proposed development is presented in the AA Screening Report. I have set out a summary of same below in Table 1 below

**Table 1**

<b>Site (site code)</b>	<b>Distance from site</b>	<b>Qualifying Interests</b>	<b>Conservation Objectives;</b>
South Dublin Bay and River Tolka Estuary SPA (004024)	1.7km north	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143]	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.

		<p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>	
South Dublin Bay SAC (000210)	1.7km north	<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>Embryonic shifting dunes [2110]</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.
Dalkey Islands SPA (004172)	C4.1km east	Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]	To maintain or restore the favourable

		<p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>	<p>conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
<p>Rockabill to Dalkey Island SAC (003000)</p>	<p>C4.4km east</p>	<p>Reefs [1170]</p> <p>Harbour Porpoise (<i>Phocoena phocoena</i>) [1351]</p>	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>North Bull Island SPA (004006)</p>	<p>C7.2km north</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>	<p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.</p>

		<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
North Dublin Bay SAC (000206)	C7.2km north	<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>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC

		<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> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	has been selected.
Ballyman Glen SAC (00713)	8km south	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7320]</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
Knocksink Wood SAC (000725)	C8.2km south-west	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex

		<p>excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>	<p>II species for which the SAC has been selected.</p>
<p>Wicklow Mountains SAC (002122)</p>	<p>C9.3km south-west</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae</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>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>Otter (<i>Lutra lutra</i>) [1355]</p>	
Wicklow Mountains SPA (004040)	C9.6km south-west	<p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Howth Head Coast SAC (000202)	C10.2km north-east	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.



Bray Head SAC (00714)	10.3km south-east	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  European dry heaths [4030]	To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.
Howth Head Coast SPA (004113)	11.3km north-east	A188] Kittiwake ( <i>Rissa tridactyla</i> )	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Baldoyle Bay SAC (000199)	C12.7 km north	Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330]  Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]	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.

Baldoyle Bay SPA (004016)	C12.7km north	<p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.
Glenasmole Valley SAC (001209)	C13.9km south-west	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</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.
Ireland's Eye SPA (004117)	14.3km north-east	<p>[A017] Cormorant (<i>Phalacrocorax carbo</i>)</p> <p>[A184] Herring Gull (<i>Larus argentatus</i>)</p>	To maintain the favourable conservation condition of the Annex I habitat(s)

		[A188] Kittiwake ( <i>Rissa tridactyla</i> ) [A199] Guillemot ( <i>Uria aalge</i> ) [A200] Razorbill ( <i>Alca torda</i> )	and/or the Annex II species for which the SAC has been selected.
Ireland's Eye SAC (002193)	14.6km north-east	[1220] Perennial Vegetation of Stony Banks [1230] Vegetated Sea Cliffs	. To maintain the favourable conservation condition of Perennial vegetation of stony banks . in Ireland's Eye SAC; To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts in Ireland's Eye SAC

12.3. The specific qualifying interests and conservation objectives of the above sites are described in Table 1 above. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including observations on the application made by prescribed bodies and observers, and I have also visited the site.

12.3.1. In terms of determining the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, I am of the view that the arbitrary use of the 15km radius is not necessary to determine a zone of Influence, but rather identification of possible impact pathways should determine same. I am of the view that the only sites that are within the 'zone of influence' of the proposed development are those sites in or associated with Killiney Bay, due to connections via surface water drainage, and foul water discharge via the Shanganagh WWTP, and those sites with a potential groundwater connections, which include the Wicklow Mountains SAC (002122), Wicklow Mountains SPA (004040), Bray Head SAC (000714), Knocksink Wood (SAC) and Glen of the Downs SAC (000719) by virtue of being wholly or partly within the same groundwater body (Wicklow Groundwater Body).<sup>3</sup> There are no other evident impact pathways, noting in particular the lack of habitats on the site for any species of conservation interest associated with any European Site and the lack of habitat suitable for any birds of special conservation interest associated with any European Site. In relation to the issues raised by An Taisce, there is no evidence the site lies in a sensitive location as regards to birds nor that the height of the buildings at 6 storeys would pose a danger in relation to bird strike. While not discussed in the applicant's AA Screening Report, the submitted EclA notes that the site is not deemed to be located in a sensitive area in terms of bird flight paths i.e., it is not located along the coast, or near any Special Protected Areas (SPAs) designated for wetland bird populations and is in itself not deemed to represent suitable *ex-situ* feeding/roosting habitat for any such species. It is also set out in the EclA that the risk of migrating birds colliding with the structure due to its height is deemed to be negligible with migrating species tending to commute at far greater heights than the proposed development height, with Swans and Geese flying up to 2500ft (ca.750m) during migration along Irish Coasts.

12.3.2. The surface water outfall is some 4.6km to the south-east of the site, with the actual pathway distance being greater than this to the point of discharge at Shanganagh, where the water discharges to the Southwestern Irish Sea-Killiney Bay Coastal Waterbody. The foul water discharge is some 5km from the site and some 1.5km

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<sup>3</sup> Source: <https://gis.epa.ie/EPAMaps/>

from the nearest European Site (Rockabill to Dalkey Island SAC). The hydrological connection of key relevance is that relating to the Rockabill to Dalkey Island SAC (003000) and Dalkey Islands SPA (004172). It is reasonable to assume that, where the water quality and the conservation objectives of the European sites immediately proximate to Killiney Bay (ie Rockabill to Dalkey Island SAC and Dalkey Islands SPA) are unaffected by the proposed development, having regard to the source pathway model, the conservation objectives of those European sites at a greater distance would also be unaffected.

- 12.3.3. Specifically in relation to potential hydrogeological impacts, I note the proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels or impacts on groundwater generally. I also note the distance to the nearest SAC with groundwater dependant habitats (Ballyman Glen SAC (00713) which is approximately 8km from the site. As per the reasoning above, it is reasonable to assume that, where the groundwater water quality of the nearest SAC with groundwater dependant habitats (Ballyman Glen SAC (00713) is unaffected by the proposed development, having regard to the source pathway model, the conservation objectives of those European sites, which also are within the same groundwater body, but at a greater distance would also be unaffected.
- 12.3.4. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. The proposed site does not support populations of any fauna species links with the qualifying interest or special conservation interests of any European Site, as set out in the EclA. I note that there is a small area of grassland to the south of the site. It is likely that this could be characterised as amenity grassland as it appears to be maintained. The special conservation interest species Light-bellied brent geese are known to use amenity grassland sites as inland feeding sites. There is no evidence on file that Brent geese utilise this area for feeding, and no party has submitted evidence of same and there is no evidence that this area could be favoured by geese or other wintering birds. I am satisfied therefore, that this area of grassland, has no function as an *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or result in a loss of any *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area.

- 12.3.5. In relation to other sites, I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.
- 12.3.6. Those sites which I have concluded lie within the 'Zone of Influence' of the proposed development relevant sites are set out below:
- **Rockabill to Dalkey Island SAC (003000)** - Potential impacts have been identified from surface water run-off during construction and operation and from operational wastewater discharges.
  - **Dalkey Islands SPA (004172)** - Potential impacts have been identified from surface water run-off during construction and operation and from operational wastewater discharges.
  - **Ballyman Glen SAC (00713)** - A potential impact has been identified as Ballyman Glen SAC is located in the same groundwater body as the site (the Wicklow Groundwater Body) and the site is designated in part for a groundwater dependant habitat (Petrifying springs with tufa formation).
- 12.3.7. The species of qualifying interest/special conservation interest, and the conservation objectives of the above sites are set out in Table 1 above.

### **Assessment of Likely Significant Effects**

#### Surface Water

- 12.3.8. In relation to impacts from surface water run-off and discharges, and the indirect connection to same via the surface water drainage network, I conclude that the proposed development will not have any measurable effect on water quality in Killiney Bay due to the scale and location of the development, relative to the receiving surface water network; the relatively low volume of any resultant surface water run-off or discharge events relative to the receiving surface water and marine environments; and the level of mixing, dilution and dispersion of any surface water run-off/discharges in the receiving watercourses and Killiney Bay. Therefore impacts on the conservation objectives, or special conservation interests of the European Sites in, or associated with, Killiney Bay, as a result of surface water discharges are ruled out.

12.3.9. At the construction stage, I note there is some potential for contaminated surface water run off to enter the surface water network during the construction stage given the works proposed on the main site, given the surface water network discharges to the Deansgrange Stream. In relation to the works proposed, I note that standard construction practices and best practice construction measures, as relates to the prevention of surface water pollution, as outlined in detail in the Outline Construction Environmental Management Plan (CEMP) would prevent polluted surface water from entering the surface water drainage network. However, even in the absence of the above measures, I note the direct line distance from the Deansgrange Stream to the point where the Shanganagh River discharges to the Irish Sea is some 6km, with the indirect distance via the surface water network likely to be greater than this. Should any contaminants related to construction practices enter the surface water network during construction, I am of the view that any such contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently dispersed and diluted within the receiving surface watercourses and within the marine environment of Killiney Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Killiney Bay can be ruled out.

12.3.10. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the Engineering Planning Report and the Site Specific Flood Risk Assessment will serve to limit the quantity and improve the quality of surface water runoff. These include SuDS measures to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. As such, I am satisfied proposed surface water measures at operational stage will be sufficient so

as not to result in any likely significant effects on any Natura 2000 site within Killiney Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter the Deansgrange Stream, I note again the direct line distance from the Deansgrange Stream to the point where the Shanganagh River discharges to the Irish Sea is some 6km, with the indirect distance via the surface water network likely to be greater than this. Should any contaminants related to the operational phase enter the surface water network during the operation of the development, I am of the view that any such contaminants would be sufficiently dispersed and diluted within the receiving surface watercourses and within the marine environment of Killiney Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Killiney Bay can be ruled out.

#### Foul Water

12.3.11. In relation to foul water impacts, I note that Irish Water have not raised any issues as relates to constraints on the capacity of the Shanganagh WWTP. I note that the Shanganagh WWTP operates under a discharge licence from the EPA and must comply with the licence conditions. I note that Killiney Bay is currently classified by the EPA as being of 'unpolluted' water quality status (source, EPA). I conclude then given these considerations, the proposed development will not impact on the water quality status of Killiney Bay.

#### Hydrogeological Impacts (Groundwater)

12.3.12. I note that the proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels. I note also distance between the proposed development and the nearest European Site with groundwater dependant habitats (c8km), with this distance serving to further reduce the likelihood of impacts, by virtue of the dilution effect, which would serve to limit any potential effects resulting from pollutants entering the groundwater. It is concluded that no significant effects are anticipated as a result of the proposed development. Given the nature of the proposal, which does not result in an alteration of groundwater levels, and given the distance to the nearest European Site with



groundwater dependant habitats (c8km) I am satisfied that that any pollutants would be sufficiently dispersed and diluted if they were to reach the site.

In-Combination impacts with other proposed/existing developments

12.3.13. In relation to potential in-combination impacts, I note that project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Shanganagh WWTP. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, and in this area, by the Dun Laoghaire Rathdown Development Plan 2016-2022. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development of 276 student bedspaces, 2 no, commercial units and a public house. The site is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

12.3.14. I note that the AA Screening Report has considered the potential for in-combination effects and has not identified any developments that have the potential to result in likely significant in-combination effects.

12.3.15. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

AA Screening Conclusion

12.3.16. Having regard to the considerations above, it is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on Rockabill to Dalkey Island SAC (003000), on Dalkey Islands SPA (004172), on Ballyman Glen SAC (00713), or any European site, in view of the sites'

conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## **13.0 Conclusion and Recommendation**

- 13.1.1. The proposed development is acceptable in principle at this site with regard to the relevant zoning objectives of the Dun Laoghaire Rathdown Development Plan. The provision of a development of the nature and scale proposed development at this location is desirable having regard to its location within the Dublin Metropolitan Area, its proximity to the nearest Third Level Institutions, its proximity to existing public transport services and having regard to the existing pedestrian and cycle infrastructure facilities. In addition, the site is located in an area with a wide range of social infrastructure facilities. The height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity and the proposal will contribute to the public realm. The overall provision of car parking and cycle parking is considered acceptable, subject to conditions. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 13.1.2. 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.

## **14.0 Recommended Order**

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: Dun Laoghaire-Rathdown County Council**

- 14.1.1. 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 16<sup>th</sup> day of September by Baker

Forge Properties Limited care of Brock McClure Planning and Development Consultants, 63 York Road Dun Laoghaire A96 T0H4.

**Proposed Development:**

The development will consist of the following:

The proposed student accommodation development shall provide for 276no. bedspaces with associated facilities, a public house, 2no. commercial units and ESB Substation. The development will include the following:

- (a) Demolition of existing Bakers Corner Public House approximately 1,378sqm
- (b) Construction of a replacement public house of approximately 292.4sqm at the Kill Avenue Frontage with adjoining ESB substation (14.4sqm) and switch room (7sqm)
- (c) Construction of a student accommodation development with an overall gross floor area of approx. 8,677 sqm (internal) in two blocks of 5 to 6 storeys (Bakers Corner Building – Building A) and 4 to 6 storeys (Main Student Accommodation Building – Building B). The development will provide for a total of 276 student bed spaces grouped into 38 no. clusters of six, seven and eight bedrooms with associated kitchen/dining/living areas
- (d) Ancillary student support facilities are also proposed at ground floor level of the main student accommodation building (Building B), including: a common room/reception (169.2sqm), management office (16.2sqm), administration space (21.3sqm), Post/Comms area (15.4sqm) meeting room (41.6 sqm), store (18.6 sqm), canteen (22.5 sqm), Toilets and Shower Room (38.9 sqm), laundry (27.3 sqm), cinema room (43 sqm), gym (28.3 sqm), and break out space (45 sqm); and at fifth floor level 2no. communal lounges (27.5 sqm and 46.8 sqm(including Kitchenette)); totaling approx. 843.1 sqm.
- (e) New Public/Urban Square with pedestrian routes, public seating, landscaped spaces and outdoor seating associated with commercial uses;
- (f) The provision of communal lounges (12.2sqm each) on floors 1 to 4 of the Bakers Corner Building (Building A).
- (g) The provision of 2no. commercial units (approx. 127.5 sqm and 273.3sqm) at the ground floor level fronting Rochestown Avenue in the Student Accommodation Building (“Building B”) and the Bakers Corner Building (“Building A”) respectively.

(h) The realignment of the existing car parking spaces to provide 34 no. car parking spaces (including 3 no. Accessible car parking spaces), 1 no. loading bay and 330 no. bicycle parking spaces at surface level and in secure stacked cycle parking store.

(i) Waste management area (24.8sqm) and plant room (60.9sqm) at ground floor level.

(j) Alterations to the existing vehicular and pedestrian entrances from Rochestown Avenue including the provision of a formalised pedestrian route, and the creation of a new pedestrian and cyclist entrance via Kill Avenue.

(k) Associated site and infrastructural works including the provision for water services, foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works including the provision of 3 no. roof terraces at fifth floor level (approx. 451 sqm, 150sqm and 60sqm sqm respectively); green roofs (97sqm and 142sqm), boundary treatments, electrical services and all associated site works

## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

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

(a) the location of the site in an established urban area, with the zoning objectives for the site allowing for a residential led development;

(b) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2016-2022;

- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) Housing for All - a New Housing Plan for Ireland 2021;
- (e) the National Planning Framework which identifies the importance of compact growth;
- (f) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (g) The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- (h) 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;
- (h) 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;
- (i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- (j) 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;
- (k) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (l) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area;
- (o) 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 or a Local Area Plan;

- (o) The submissions and observations received;
- (q) The Chief Executive Report from the Planning Authority; and
- (r) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **Appropriate Assessment**

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 Appropriate Assessment Screening document 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 a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), 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 existing use on the site and pattern of development in surrounding area;
- (c) The availability of mains water and wastewater services to serve the proposed development,

(d) 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)

(e) 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 Outline Construction Management Plan, the Site Specific Flood Risk Assessment, the Construction & Demolition Waste Management Plan, the Landscape Management and Maintenance Plan, the Ecological Impact Assessment Report and the Engineering Planning Report.

The Board did not consider that the proposed development would 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.

#### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, with regard to building height and Part V provision.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Appendix 9: Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness', 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development. The proposal represents the regeneration of an important site and makes a contribution to the housing stock, of some 276 no. student bedspaces, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery;
- Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth and seeks to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements;
- The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs;
- The Urban Development and Building Height Guidelines (2018), state that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas through enhancing both the scale and density of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines, which the Board considers have been satisfactorily addressed in this instance.



The Board considers that, having regard to the provisions of section 37(2)(b)(ii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 7.6 of Appendix 2 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 (as relates to Part V provision within Student Accommodation developments) would be justified for the following reasons and considerations;

- There are conflicting requirements set out in the Dun Laoghaire-Rathdown County Development Plan 2016-2022 (Policy RES2 and Section 7.6 of Appendix 2 refer) as relates to the requirements for Part V provision within Student Accommodation developments;
- Since the making of the Dun Laoghaire Rathdown Development Plan 2016-2022, the Board did not apply Part V requirements for off campus student accommodation developments at a site at Our Lady's Grove, Goatstown, Dublin 14 (ABP-309430-21), at the Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18).

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

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

3. The development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided for under Section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and shall not be used for any other purpose without a prior grant of planning permission for change of use.

**Reason:** In the interest of residential amenity and to limit the scope of the development to that for which the application was made.

4. The proposed development shall be amended as follows:

(a) The 4 no. car parking spaces to the north-west of the 'Urban Square' shall be omitted and the area shall be incorporated into the proposed public realm.

Amended plans detailing the above amendments shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

**Reason:** In the interests providing a public realm of sufficient quality, in the interests of surrounding residential amenity and in the interests of the amenity of the future occupants of the proposed development.

5. (a) Prior to the commencement of development, an amended Student Management Plan shall be submitted to, for agreement in writing with, the Planning Authority detailing appropriate access times to the 3 no. roof terraces. The roof terraces shall not be available for use outside of these agreed times. Following agreement with the Planning Authority, the student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Amended Student Accommodation Management Plan.

(b) Student House Units / Clusters shall not be amalgamated or combined.

**Reason:** In the interests of the amenities of occupiers of the units and surrounding properties.

6. Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor commercial units shall be submitted for the written agreement of the planning authority. Class 2 office or professional uses shall not be permitted without a separate grant of planning permission. In addition, prior to the occupation of these units, details of openings, signage, lighting, shopfronts and layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

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

7. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Outline Construction and Environmental Management Plan (CEMP), the Site Specific Flood Risk Assessment and subsequent reports submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
  - (a) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority
  - (b) A Quality Audit shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage which is to be submitted to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
  - (c) The proposed development shall be undertaken in accordance with the recommendations and mitigation measures of the Traffic and Transport Impact Assessment.

- (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
- (f) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

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

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

- 9. Car parking serving the entire site shall be managed based on a detailed car parking management plan. Prior to the commencement of development, such a detailed car parking management plan shall be submitted for agreement in writing with the Planning Authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the existing and proposed commercial units and for visitors to the student accommodation units.

- 10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle 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/or future proof the development such as would facilitate the use of electric vehicles.

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

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

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

**Reason:** In the interest of visual amenity.

13. The area of public realm (Urban Square) and the proposed landscaped pedestrian/cycle links to the east and south of the site, as shown on the lodged plans, and the areas of communal terraces shall be landscaped/planted in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

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

**Reason:** In the interests of amenity and public safety.

15. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

16. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

**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.

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

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

19. 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.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

21. The construction of the development shall be managed in accordance with a Final Construction and 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 inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

**Reason:** In the interests of public safety and residential amenity.

22. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

23. 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.

**Reason:** In the interest of sustainable waste management.

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

25. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

26. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

**Reason:** To comply with the Councils taking in charge standards.

27. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

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

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.



The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

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

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

**Reason:** To ensure the satisfactory completion of the development.

29. 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 for Dun Laoghaire-Rathdown County Council 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.

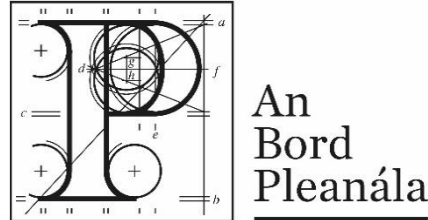
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Rónán O'Connor  
Senior Planning Inspector

19<sup>th</sup> January 2022

Appendix A: EIA Screening Form



**EIA - Screening Determination for Strategic Housing Development Applications**

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		ABP-311411-21
<b>Development Summary</b>		Demolition of existing Baker's Corner Public House, construction of replacement Public House, 276 no. student bedspace accommodation and associated site works..
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An AA Screening Report has been 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	Please see Sections 11.1.5, 11.1.6 and 11.1.7 of Inspector's report for details of same.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			

<p><b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b></p>	<p><b>No</b></p>	<p>The student accommodation use, the public house and the 2 no. commercial units proposed, and the size and design of the proposed development would not be unusual in the context of this town centre location.</p>	<p>No</p>
<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>Yes</b></p>	<p>Construction materials will be typical of such urban development. Development of this site will not result in any significant loss of natural resources or local biodiversity.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p><b>No</b></p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains water and drainage services. Irish Water have not cited any capacity constraints in relation to the foul water connection.</p>	<p><b>No</b></p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Lighting is designed to avoid overspill to adjoining lands</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site lies within Flood Zone C, with a subsequent low risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

<p><b>1.10 Will the project affect the social environment (population, employment)</b></p>	<p><b>Yes</b></p>	<p>Redevelopment of this site as proposed will result in an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	<p><b>No</b></p>
<p><b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b></p>	<p><b>No</b></p>	<p>The site is a brownfield site in a neighbourhood centre. The zoning of the site allows for a residential led development and the development of this site has been foreseen by the Dun Laoghaire-Rathdown Development Plan 2016-2022, which has undergone an SEA and has been subject to a Strategic Flood Risk Assessment (SFRA). Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p><b>No</b></p>
<p><b>2. Location of proposed development</b></p>			
<p><b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b></p> <p>1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA</p>	<p><b>Yes</b></p>	<p>There are no conservation sites located on the site. An AA Screening Report has been submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the</p>	<p><b>No</b></p>



<p>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</p>		<p>sites' Conservation Objectives and I concur with the conclusions of same.</p>	
<p>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?</p>	<p>No</p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>The site is not located within an Architectural Conservation Area. The site is within proximity of a 2 no. Protected Structures a The application is accompanied by a Architectural and Archaeological Heritage Impact Assessment report which rules out any adverse impacts on the setting of surrounding Protected Structures and rules out any negative visual impacts, and rules out any impact on archaeology. I am of the view that there will be no negative impacts on any features of landscape, historic, archaeological, or cultural importance.</p>	<p>No</p>

<p><b>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?</b></p>	<p><b>No</b></p>		<p>No</p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site lies within Flood Zone C and the risk of flooding is concluded to be low.</p>	<p>No</p>
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network.</p>	<p>No</p>

<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>Yes</b>	There is a nursing home situated approximately 25m to the west of the site. However impacts on this residences are not considered likely. There are no other existing sensitive land uses or substantial community uses which could be affected by the project.	<b>No</b>
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**3. Any other factors that should be considered which could lead to environmental impacts**

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

**C. CONCLUSION**

<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		

## 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,

(c) The existing use on the site and pattern of development in surrounding area;

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

(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 Outline Construction Management Plan, the Site Specific Flood Risk Assessment, the Construction & Demolition Waste Management Plan, the Landscape Management and Maintenance Plan, the Ecological Impact Assessment Report and the Engineering Planning Report;

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

**Inspector:** \_\_\_\_\_ **Ronan O'Connor**

**Date:** 19<sup>th</sup> January 2022