



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-311540-21**

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#### **Strategic Housing Development**

Demolition of properties and associated outbuildings, change of use of St. Joseph's House, construction of 463 no. apartments, childcare facility and associated site works.

#### **Location**

Lands at 'St. Joseph's House' and adjoining properties at Brewery Road and Leopardstown Road, Dublin 18. ([www.sjhshd.ie](http://www.sjhshd.ie))

#### **Planning Authority**

Dun Laoghaire Rathdown County Council

#### **Applicant**

Homeland Silverpines Ltd.

**Prescribed Bodies**

An Taisce; Department of Housing  
Local Government and Heritage; Irish  
Water; Transport Infrastructure  
Ireland.

**Observer(s)**

1. Agnes Ward
2. Aideen and Nigel Byrne
3. Alex and Hilary Kilcoyne
4. Alison Duffy
5. Ambre Bigeard
6. Andrea Moraghan
7. Andrew and Hillary Dennison
8. Angela Plunkett
9. Anne and George Parsons
10. Anne Cunniffe
11. Anne Sullivan Foundation
12. Barry and Roseanne Smyth
13. Barry Saul
14. Ben Wohlers
15. Breda Carroll
16. Breda Kelly
17. Breda S. Van Zuydam
18. Brewery Road Management
19. Brian and Ellen O'Donoghue
20. Brian and Michele O'Crowley
21. Caris Fitzgerald
22. Caroline Jolly
23. Catherine Hanley
24. Chris Kitteringham

25. Christine Barrett
26. Colette and Ronnie McCarthy
27. Conal Myles and Paul Whelan
28. Darina O'Hanlon
29. David and Pauline Flusk
30. David Simons
31. Deirdre Gilbride
32. Dermot Rock
33. Don and Joan Beck (Beck  
International)
34. Dympna Cotton
35. Eileen Moriarty
36. Elaine Byrne and Paul  
Cunningham
37. Elizabet Macree
38. Emer O'Beirne
39. Eoin Cleary
40. Erlinda Smyth
41. Eugene Curran
42. Fiona Rowley and Jarlath  
O'Sullivan
43. Florence M Dowling
44. Francesca and Neill Briody
45. Francis Davern
46. Fren Kiernan
47. Garrett O'Sullivan
48. Gemma Daly
49. Geraldine English
50. Gillian Quirke

51. Grace Ann Meyhen and Karl O’Riordan
52. Helena Daly
53. Imelda and David O’Dwyer
54. Jim Halpenny
55. John and Margaret Blennerhassett
56. John and Stephanie Moran
57. John Conway and The Lough Environmental Group (BKC Solicitors)
58. John Conway
59. Johanthan and Vivienne Finan
60. Joyce O’Sullivan
61. Kevin Sherry
62. Killian Bates and Niamh Phelan
63. Leopardstown Action Group
64. Lisa Kojoy
65. Liza and Colum O’Regan
66. Maresa Young
67. Margaret Lynch
68. Margot Healy
69. Maria McNabb
70. Martha and David Cordial
71. Mary Dillon
72. Maureen O’Driscoll and Joachim Braune
73. Michael and Jane Kennedy
74. Michael Sullivan
75. Myriam O’Neill

76. Neil Kerrigan
77. Nicholas O’Kane
78. Padraig and Cliona McKeever
79. Padraig Murphy
80. Patricia and Conor Killeen
81. Patrick Browne
82. Patrick Phelan
83. Peter Cogan
84. Rachel Thornton
85. Ronan Cooper and Others
86. Sandra Robinson
87. Seamus and Joyce Power
88. Seamus Power
89. Sean and Brenda McNulty
90. Sean Smyth
91. Shane and Andrea Cusack
92. Shane and Niamh Dunne
93. Shikhar Mathur
94. Sinead Gillett
95. Sinead McGorrian
96. Stephen O’Reilly
97. Thomas Cleary
98. Tudor Lawns Residents  
Association
99. Valerie Troy
100. Willian James and Jennifer  
Ralph James
101. Woodford Residents  
Association

102. Clare O'Reilly

**Date of Site Inspection**

23<sup>rd</sup> December 2021

**Inspector**

Una O'Neill

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site is located within an established residential area, c.0.3km to the east of the Sandyford District and to the north of South County Business Park and Central Park mixed use and employment area, in the administrative area of Dún Laoghaire Rathdown (DLR) County Council. The site is located c.1km to the east of the M50 and c.1km to the west of the N11 Dual Carriageway. The Leopardstown Inn neighbourhood centre and the Sandyford mixed-use inner core (as identified in the Sandyford Urban Framework Plan) are located approximately 0.6km and 1km respectively from the site. The Sandyford and Central Park Luas stops are c. 600m and c. 700m respectively from the site.
- 2.2. The subject site comprises St Joseph's House "for the Adult Deaf and Deaf blind", which is a vacant protected structure, and 10 no. residential properties which face onto and are directly accessed from the Leopardstown Road. The assembled site has a loosely triangular configuration and a stated area of 2.74 ha. There is a wayleave from Silver Pines over the site, along the western boundary, to serve the Anne Sullivan Centre for the deafblind (located outside the site boundary and immediately to the rear of St. Josephs). The site fronts onto and is accessed from the Leopardstown Road (R113) to the south, with a high granite wall and individual entrances onto Leopardstown Road. St. Josephs is accessed from Brewery Road (N31) to the northwest, via the Silver Pines residential development (with an additional unused access off Leopardstown road also serving St. Joseph's). There are several mature trees / tree lines on the site, including a tree line of Austrian Pines, to the north-northwest of St. Joseph's House. The topography of the site is generally flat.
- 2.3. On the opposite side of Leopardstown Road is Silverpark GAA grounds, the LauraLynn Childrens Hospice/Children's Sunshine Home, and entrance to Tudor Lawns residential development (two storey dwellings). On the opposite side of



Brewery Road is the entrance to Woodford residential development (two storey dwellings) and Sandyford Luas Depot. To the north is a pedestrian/cyclist greenway linking Leopardstown Road and Brewery Road, adjoining which is Leopardstown Lawn/Court residential developments (two storey dwellings) and Leopardstown Park public open space. The site is bounded to the northwest by Silver Pines residential development (two storeys), and the Anne Sullivan Centre for the deaf-blind (single storey buildings). To the west is Arkle Square (a block of former alms houses and ACA), and a scheme of townhouses (The Chase, Minstrel Court, Ballymoss Parade and Sir Ivor Mall).

### 3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the construction of 463 apartments across five blocks and the conversion of St. Josephs House (protected structure) into apartments and a childcare facility.
- 3.2. An EIAR and an AA Screening Report have been submitted with the application.
- 3.3. The following tables set out some of the key elements of the proposed scheme as indicated in the applicant’s documents:

#### Key Figures

<b>Site Area</b>	2.74ha gross / 2.58ha net
<b>No. of Residential Units</b>	463 apartments (9 of which are in converted protected structure of St. Joseph’s)
<b>Density</b>	179 units per hectare
<b>Height</b>	Block A: 5 storeys Block B: 4-7 storeys Block C: 5-7 storeys Block D: 5-10 storeys Block E: Refurbishment of existing 2 storey building Block F: 3-6 Storeys

<b>Dual Aspect</b>	232 of 463 units – 50.1%
<b>Childcare Facility (St. Joseph's)</b>	282 sqm – 115 childcare spaces
<b>Tenant amenity space (block D)</b>	c. 636sqm – Block D: clubhouse/multi-purpose room with kitchen, library/reading room, lounge area, concierge area, office area, post room, fitness club; and at fifth floor level a lounge room is located directly off the outdoor terraced areas.
<b>Café (block D)</b>	c. 49sqm
<b>Public Open Space</b>	9885 sqm (of which 6680sqm public open space; 3205sqm communal open space).
<b>Part V</b>	45 units

#### Unit Mix

	<b>Studio</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>Total</b>
<b>Apartments</b>	85	117	248	13	463
<b>As % of total</b>	18%	25%	54%	3%	100%

#### Parking Provision

<b>Car Parking</b>	259 (of which 232 at basement and 27 at surface); 10 motorcycle spaces
<b>Bicycle Parking</b>	968 (816 at basement; 152 at surface)

- 3.4. Vehicular access to the site is proposed from the existing vehicular access point via Silver Pines to St. Josephs, (which is connected to an existing all movement junction onto Brewery Road) and 1 new vehicular access point at the general location of 'Annaghkeen' at Leopardstown Road (a new Left In / Left Out junction arrangement).

The new left in-left out access along Leopardstown Road will replace 9 no. existing access points at 'Woodleigh', 'Cloonagh', 'Souk El Raab', 'Welbrook', 'Calador', 'Alhambra', 'Dalwhinnie', 'Annaghkeen' and 'The Crossing'. Two new pedestrian/cyclist linkages are proposed through the site from the adjoining greenway to the northwest, with an open boundary to Leopardstown Road to the south. Proposals also provide for the relocation of an existing bus stop along Leopardstown Road.

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

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

- Planning Report
- Community Infrastructure Statement
- Statement of Consistency
- Statement of Response to ABP Opinion
- Material Contravention Statement
- EIAR
- Schedule of Accommodation and HQA
- Masterplanning and Architectural Design Statement
- Civil Engineering Infrastructure Report
- Site Specific Flood Risk Assessment
- Hydrogeological Assessment of Proposed Soakaway
- Traffic and Transport Assessment and Mobility Management Plan
- Construction and Demolition Waste Management Plan

- Operational Waste Management Plan
- Landscape Report
- Screening for Appropriate Assessment
- Arboricultural Report
- Public Lighting Report
- Sustainability and Energy Report
- Assessment of Sunlight and Daylight Access within the Proposed Development
- Building Lifecycle Report
- Estate and Common Area Management Strategy Report
- Universal Access Statement
- Verified photomontages and CGIs
- Assessment of the Potential of Collision Risk for Birds
- Telecommunications Report

#### 4.0 Planning History

**PL06D.249248 (Reg. Ref. D17A/0337):** Following an Oral Hearing a seven-year planning permission was GRANTED for the demolition of 3 no. dwellings (Annaghkeen, Dalwhinnie and Marian Villa) and associated outbuildings and change of use of St. Joseph's House from residential care facility to residential use to provide for an overall development comprising 131 no. residential units (126 no. apts. and 5 no. town houses) and a creche facility in a scheme comprising 5 no. blocks in total (inclusive of St. Joseph's) of 2 to 5 storeys partly over dual access basement. The proposed development also provided for a single vehicular access off Leopardstown Road (where three exist), 177no. car parking spaces (139 no. spaces at basement level and 27 no. surface spaces), 174no. bicycle parking spaces and circa 5,960sq.m of public open space. The overall site had a stated area of 1.65ha.

The following conditions are noted:

- Condition No.3: The vehicular access to the scheme shall be provided via both the Brewery Road and Leopardstown Road with double ramped basement car parking. Ramp access A and Ramp access B to the basement car park shall be operational and available for use prior to occupation of any of the proposed Blocks (A-C). Only left in/left out movements shall be permitted at the Leopardstown Road Access. Reason: In the interest of traffic safety.
- Condition No.4: The works to the protected structure at Saint Joseph's shall be completed prior to the occupation of Blocks A-C. Reason: In the interest of the protection of the Built Heritage of the County.

## 5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application consultation (Ref. ABP-307355-20) took place via Microsoft Teams due to Covid-19 restrictions on 29<sup>th</sup> September 2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

5.2. The following issues were requested to be addressed:

### 1. Development Strategy

Further consideration and/or justification of the documents as they relate to the overall design and layout of Blocks D & F, the proposed interface with Leopardstown Road, the transition with existing dwellings and the justification for any material contravention of the height strategy in the development plan and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018).

### 2. Residential Amenity

Further consideration and/or justification of the documents as they relate to impact of Block D & F on the residential amenity of both the occupants of the existing neighbouring dwellings and future occupants of the proposed development, having regard, inter alia to the following:

- The location and design of Blocks D & F to the rear of the neighbouring dwellings and the potential for a negative impact on the visual and residential amenity,
- The location of the proposed residential amenity areas on the upper floors, the levels of overshadowing on the proposed public open space areas and the potential for a negative impact on the residential amenity of the future occupants.

### 3. Foul Water

Further consideration and/or justification of the documents relating to the foul water connection proposed having regard to the concerns raised by the Planning Authority during the Tripartite meeting relating to the capacity of the Waste Water Treatment System on the opposite side of Leopardstown Road (Kilmacud Crokes grounds) and the report of Irish Water advising that the waste water connection point was to be determined when the West Pier DAP model is completed (expected Q4 2021).

5.3. The following specific information was requested to be submitted:

1. A Traffic and Transport Assessment including, inter alia, a rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes and a mobility management plan.
2. Drawings that detail dual aspect ratios should be clearly laid out and be accompanied by a detailed design rationale report.
3. Updated landscape plans delineating the public open space and communal open space and including useable space for play provision necessary to comply with Section 4.13 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.
4. Noise Impact Assessment including the impact of the traffic noise and any mitigation measures necessary to reduce a negative impact on the amenity of future occupants.

5. An Updated Sunlight/Daylight analysis showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties.
6. Wind micro-climate study, including analysis of balconies and upper level roof gardens.
7. A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, including its specific planning policy requirements.
8. Response to issues raised in Appendix C of Planning Authority Report, received 14th of August 2020, which includes the internal reports of the Transportation Planning Dept. relating to the design of the vehicular access from the Leopardstown Road, the report of the Drainage Dept. relating, inter alia, surface water design and the Park Department relating, inter alia, landscaping and protection of trees.
9. A detailed phasing plan, including timing of delivery of the works to St Josephs protected structure.
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.

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

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

5.4.2. The following points are noted:

- Block F – revised shape and height from 3/4/7/8 storeys to 3/6 storeys.
- Block D is centrally located and sufficiently removed from sensitive boundaries, however, design revisions include a new set back upper level. The portion of the block closest to Silver Pines is 8 storeys, with upper floor set back, resulting in distances to the shared boundary of 33.3m to 35.1m.
- 4 storey element of Block B decreased in width following pre planning, to give increased 2.69m separation distance between Block B and C, increasing separation distance from 12.45m to 15.14m and opposing windows are staggered so that no two primary windows are directly opposing.
- Block C and D now have slanted walls at the entrance lobby.
- Block D serves to announce the entrance off Leopardstown road with the 10 storey element anchoring the Plaza set between Blocks A & B.
- Daylight: ARC's analysis indicates a potential for the proposed development to result in "imperceptible" to "slight" to "moderate" changes in daylight access within existing buildings facing towards the application site in neighbouring residential estates at The Chase (including Sir Ivor Mall and Minstrel Court), Silver Pines (including the Anne Sullivan Centre), Leopardstown Lawns and Leopardstown Avenue. Under a worst case scenario, it is predicted that the impact of the proposed development on daylight access within existing buildings on lands to the west, north and east will be consistent with emerging trends for development in the area, particularly having regard to the scale of development previously permitted on the site and in the wider Sandyford Area.
- Sunlight: During the mornings and early afternoons of the spring, summer and autumn months, shadows cast by the proposed development will extend west and north to The Chase (including Sir Ivor Mall and Minstrel Court) and to Silver Pines (including the Anne Sullivan Centre) resulting in an "imperceptible" to "moderate" impact in sunlight access to a small number of rooms facing towards the application site and rear gardens bounding the application site, with the rear gardens of Nos. 24 and 25 Silver Pines likely to experience potentially "moderate" to "significant"



additional overshadowing for a considerable part of the day during the spring and autumn months.

- On foot of further foul water modelling, a solution was agreed with Irish Water to provide a wastewater pumping station on the subject site with a pumped discharge to the foul sewer in Silver Pines housing estate adjacent to the development. This sewer connects to the Sandyford system. The updated Confirmation of Feasibility letter from IW, dated the 12th of July 2021, sets out their requirements. An updated buried foul layout drawing and accompanying pumping station detail drawings were then prepared to reflect the requirements of IW. These drawings are part of the final application package.

- Phasing: Phase 1 relates to Block A and B; Phase 2 to Block C; Phase 3 to Block D, Block E (St. Josephs) and Block F.

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

5.4.4. It is noted that a Material Contravention Statement was also submitted with the application documentation. This shall be addressed further within the main assessment.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

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

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

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to

achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)
- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

## 6.2. Regional Policy

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

The site is located within the Dublin City and Suburbs area of the ‘Dublin Metropolitan Area’.

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

- Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.
- Integrated Transport and Land use – To focus growth along existing and proposed high quality public transport corridors and nodes on the expanding public transport network and to support the delivery and integration of ‘BusConnects’, DART expansion and LUAS extension programmes, and Metro Link, while maintaining the capacity and safety of strategic transport networks.

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

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

- **RPO 3.2** - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin City and suburbs and a target of at least 30% for other urban areas.
- **RPO 4.41**: Encourage transition towards sustainable and low carbon transport modes through the promotion of alternative modes of transport and ‘walkable

communities' whereby a range of facilities and services will be accessible within short walking or cycling distance

- **RPO 5.4:** Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- **RPO 5.5:** Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

### 6.3. Local Planning Policy

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

- The subject site is governed by Zoning Objective A, which seeks to 'protect and or improve residential amenity'
- Map based Local Objective at northeastern boundary: 'to protect and preserve trees and woodlands'.
- The site contains a building called St. Joseph's which is a Protected Structure – RPS no. 1548.
- A 6 year road proposal is identified on the Leopardstown Road. This road has been widened.
- A proposed quality bus corridor is proposed on the Leopardstown Road bounding the southern boundary of the site.
- The site is proximate to 'Arkle Square' ACA, located to the west of the application site.

The following policies are noted:

- **Policy UD1:** It is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place'. The Council will promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.
- **Policy UD6:** It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

## **Section 2 Sustainable Communities Strategy**

- **Policy RES3:** It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines: • 'Sustainable Residential Development in Urban Areas' (DoEHLG 2009). • 'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009). • 'Quality Housing for Sustainable Communities' (DoEHLG 2007). • 'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013). • 'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013).
- It is stated under RES3 that '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'.
- It is stated 'As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas....To enhance and protect ACA's, cACA's, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings new

residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity’.

- **Policy RES4:** 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.
- In implementing RES4, it is stated ‘There is the need to retain residential services and amenities in existing built-up areas. It is important to stem population loss in these areas by promoting and encouraging additional dwelling units. Implementation of this policy will necessitate the use of the Council’s powers under planning - and other associated legislation - to: ‘Encourage densification of the existing suburbs in order to help retain population levels – by ‘infill’ housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.... Prevent any new development or change of use which would seriously reduce the amenity of nearby dwellings’.
- **Policy RES7:** It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.
- **Policy ST3:** It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009 –2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy.
- **Policy ST15:** It is Council policy to promote, facilitate and co-operate with other agencies in securing the extension of the Luas network in the County as set out in the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’ and including any future upgrade to Metro

## **Section 8 Development Management**

- S. 8.2.3.1 Quality Residential Design - Density - Higher densities should be provided in appropriate locations. Site configuration, open space requirements and the characteristics of the area will have an impact on the density levels achievable.
- S.8.2.3.2, Quantitative Standards, (ii) Residential Density - In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location and accessibility to public transport. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied... In Dún Laoghaire-Rathdown, apart from in exceptional circumstances, minimum residential densities should be 35 dwellings per hectare.
- S.8.2.3.3(iii), Mix of Units – Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.
- S.8.2.3.3(vii) Minimum Apartment Floor Areas - All apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas, as set out in the Table 8.2.2. below....One bedroom, 55sqm; two bedroom, 85-90sqm; three bedroom, 100 sqm.
- S.8.2.3.5 Residential Development – General Requirements – (ii) Habitable Room Sizes: The minimum size of habitable rooms for houses/ apartments/and flats shall conform with appropriate National guidelines/standards in operation at the date of application for planning permission, including the minimum dimensions as set out in 'Sustainable Urban Housing: Design Standards for New Apartments' and 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007)
- S.8.2.4.5 Car Parking Standards - The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the

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

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

- Table 8.2.3 Residential Land Use - Car Parking Standards.
- Table 8.2.4 Non Residential Land Use – Maximum Car Parking Standards.
- Table 4.1 sets out the cycle parking standards.

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

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

- the development would create urban design benefits;
- would provide major planning gain;
- would have a civic, social or cultural importance;
- the built environment or topography would permit higher development without damaging appearance or character of an area;
- would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and,
- the size of the site of e.g. 0.5 ha could set its own context.

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

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



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

## 7.0 Observer Submissions

- 7.1. In total 106 submissions were received, of which four are from prescribed bodies (see section 9 hereunder in relation to prescribed bodies).
- 7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

### National and Local Policy

- Building Height and Apartment Guidelines are not authorised by section 28(1C) of the Planning and Development Act 2000 (as amended). These provisions are unconstitutional/repugnant to the Constitution. The Guidelines are contrary to the SEA Directive insofar as they purport to authorise contravention of the development plan without an SEA being conducted or a screening for SEA on the variations being brought to the development plan as a result of same.
- Proposal materially contravenes the development plan in terms of height and cannot be justified by Height Guidelines and SPPRs therein.
- Proposal does not comply with Building Height Guidelines and SPPRs and Criteria and Specific Assessment including in relation to impact on birds/bats.
- The developer's report entitled 'Assessment on the Potential of Collision Risk for Birds' is vague and unspecific; the methodology is not clear and it is not based on any surveys of the site and locus.
- The proposal materially contravenes the development plan in relation to residential mix, and such material contravention is not justified by reference to the Apartment Guidelines.
- The proposal materially contravenes the development plan in relation to density, and such material contravention is not justified by reference to the Apartment Guidelines.

- The proposal materially contravenes the development plan in respect of objectives for the protection and preservation of trees and woodland, and such material contravention is not justified by reference to S37(2) of the Act.
- The proposal materially contravenes the development plan in relation to Car Parking and such material contravention is not justified by reference to S37(2) of the Act and to the Apartment Guidelines.
- The proposed development is in transitional zone and is an appropriate land use.
- The proposed development is not of strategic or national importance. Purported reliance on the definition in the 2016 Act is erroneous.
- The documentation does not comply with the requirements of the 2016 Act and the Regulations in relation to the requirements for detailed plans and particulars, in relation to the proposed basement level of the proposed development.
- The site notice does not comply with regulations as it does not contain a complete description of the development.
- The Board should refuse permission where the developer considers there will be a likely significant impact from a reduction in Daylight and Sunlight reaching neighbouring properties including the Laura Lynn Children's Hospice to the south and has not provided any solutions to mitigate these likely significant impacts.

#### Density, Design and Layout

- Scale, size and height is out of proportion with surrounding properties.
- SHD is excessive in terms of scale, density and height for this site. If approved in current format, it will have a detrimental effect on the local community and environment and fail to meet the vision of 'healthy placemaking' outlined in the County Development Plan.
- Design of Block D at 10 storeys lacks any architectural interest and consists of stacked boxes and will not serve as a fine landmark. It will dominate the skyline and overshadow the existing magnificent pine trees. Leopardstown Lawn will suffer overshadowing, rated slight to moderate, and possible loss of value to their properties.
- Density is considered excessive and development would be incongruous.

- Site is not within Central Park or Sandyford Industrial Estate where high rise high density exists. Site is outside Sandyford Urban Framework Plan.
- High number of studios and one bed apartments does not provide for sustainable communities and will not provide for home working.
- Lack of 2 or 3 bed apartments for people to downsize to.
- Questionable whether the development creates healthy placemaking.
- Development is monolithic in nature with a limited range of materials.
- The development does not integrate into the adjacent neighbourhoods.
- There is no transition in scale to the boundaries.
- Height is not in keeping with the area.
- Block D is excessively tall and distort sense of scale. It is monolithic with limited range of materials which cannot be considered to enhance the visual amenity of the area.
- Block D will have a negative impact on the sylvan setting, mature trees and wildlife, and makes no attempt to integrate with the local community. The development would be more appropriate in the Sandyford Industrial Estate.
- Boundary of a wooden fence to Sir Ivor Mall is considered unacceptable. Existing wall is to be removed.

#### Impact on Residential Amenity

- The intensification of use of this space fundamentally ignores the entire surrounding area – which is two story detached and semi- detached properties, completely surrounding the location.
- Block F should be omitted to allow for an increase in separation distances to boundaries with Ivor Mall, given issues of overlooking and overbearance.
- The site plan does not accurately reflect the footprint of no. 6 Sir Ivor Mall which has been extended under ref D05B/0463, resulting in reduced garden depth of 6.4m resulting in shortest distance between Block F and no. 6 at 14.6m.
- Site should provide houses for local residents to downsize.

- Concern that a fence is proposed at boundary treatment between the back gardens of Sir Ivor Mall and the Development.
- Overshadowing impact on adjacent properties.
- The development will cause light pollution.
- Overlooking caused by proximity of proposed development to the boundaries with no screening measures,
- Height will overwhelm and dominate surrounding properties, including Laura Lynn Hospice.
- Rooms within Laura Lynn Childrens Hospice will experience significant change in daylight access.
- 8 to 10 storey blocks will dominate the immediate area including Silver Pines, Chase, Woodford, Leopardstown Road, Tudor Lawns, Leopardstown Drive, and Leopardstown Lawn. For the houses in Silver Pines and The Chase in particular the development will negatively impact the view and access to daily sunlight in these estates.
- Photomontage View 13 demonstrates inappropriate height, scale, bulk and proximity of Block F at Sir Ivor Mall and Minstrel Court and it would have an overbearing visual impact on those rear gardens and dwellings.
- Loss of light, impact on privacy, parking issues and increased traffic will all impact on quality of life of residents in Leopardstown Lawn.
- Leopardstown Road is located 3 meters higher than Leopardstown Lawn –. This combined with elevated building associated with the proposed underground parking effectively raises this height impact to Leopardstown Lawn residents to what would effectively have an impact of 11-12 stories high against Leopardstown Lawn.
- The mass, bulk, and scale would overbear the visual amenities of adjacent properties.
- The proposed separation distances with adjacent properties are below the 22m standard for 2 storey dwellings and will therefore impact privacy. It is recommended that the heights are reduced or that the units overlooking adjacent properties have no windows or balconies on the gable ends.

- The LVIA does not include a view from the Anne Sullivan Centre, in order to demonstrate the impact from Block D and 8-10 storeys. The development in particular Block D which is positioned approx. 30m from the boundary, does not respond to the sensitivity of adjacent lands, including the Anne Sullivan Centre for the deaf and blind.
- The development will impact the value of adjacent properties.
- Residents congregating on balconies will generate noise which will impact local residents.
- The development could increase crime rates.
- The demolition of dwellings on Leopardstown Road will impact the character of the area.
- There are another 7 SHD sites within a 10-minute walk of Tudor Lawns either under construction or in the planning process. These sites will deliver a staggering 1,895 units. If we then add Homeland Silverpines, that total is 2,358. There is inadequate infrastructure, school and childcare facilities, and insufficient amenities in the local area. The nearest large park is 3km away at Fernhill Park and Gardens in Stepside.
- Open space proposed is inadequate.
- A submission from the Anne Sullivan Centres states the development of Block D at 8-10 storeys is not sensitive to the south east boundary of their site which comprises a number of single storey residential/day service buildings and there is no transition in scale to their boundary. The loss of daylight, overshadowing and overlooking will have a detrimental effect on the residents of the Anne Sullivan Centre. Block 'D' in particular should be reduced in mass and height to maximise access to natural daylight, ventilation and views and to minimise overshadowing and loss of light to the Anne Sullivan Centre. The submitted wind impact assessment clearly demonstrates that Block D will have an adverse effect on the lands within the Anne Sullivan Centre creating micro climate effects for residents who are already unsteady on their feet. It is stated in the submission that the vulnerable nature of the residents in the Anne Sullivan foundation can't be emphasised enough. They have complex needs and require significant care, many of whom have been living here

happily for 20-30 years. The construction alone of this proposed development will pose a huge challenge for these vulnerable residents. Block D should be reduced to a maximum of five storeys to protect the amenities of the Anne Sullivan Centre.

- There is a particular issue with separation distances of less than 22m between Blocks B and C, within Block C, within Block D, and between Block D and F.
- Block F should be omitted and replaced with two storey development only; or six storey element of Block F should be omitted and the remaining three storey building moved eastwards to increase separation distances to Sir Ivor Mall by at least a further 5m.
- Impact of creche in terms of noise on existing residential dwelling at 12 Silver Pines.
- Chapter 18 of the EIAR report Daylight and Sunlight 18.4.2 states that rooms within the LauraLynn House Children's Hospice may experience significant change in daylight access. It seems particularly cruel and insensitive to allow construction which will have a negative impact on such a vulnerable group of children.

#### Architectural Heritage/Protected Structure

- Block D dwarfs protected structure.
- The development will negatively impact Arkle Square ACA.
- Submitted Architectural Heritage Impact Assessment fails to consider the potential impact on Arkle Square. Block D at 8 storeys is less than 100m from Arkle Square and 10 storey element is just over 125m from Arkle Square.

#### Traffic and Transportation

- Proposal for a shared pedestrian/cycleway from entrance at Silver Pines to tie in with the existing public footpath would constitute a safety hazard, in particular deaf, blind and disabled residents.
- No traffic control measures are proposed for the Silver Pines access. Scope of RSA does not include the existing access arrangement via Silver Pines.
- Road network in the area is already congested, which will be further contributed to by large office complexes in South County Business Park and SHDs under construction nearby on Murphystown Way.

- Car parking proposed is unrealistic. Meeting the standards of DLRCC Development Plan requires 601 spaces. Danger of overspill parking on surrounding streets.
- Development will impact on parking in surrounding estates.
- Trying to dissuade car use by reducing the availability of car parking spaces, as in this proposed development, is aspirational at best.
- Current public transport infrastructure of buses/trams would be unable to meet such demands and is unlikely to be sufficiently upgraded before the completion of construction at this SHD site which is envisaged as early-to-mid 2026.
- More EV charges should be provided on site.
- Traffic hazard will arise on existing streets in Silver Pines with increased traffic serving the apartments.
- Only St. Joseph's Hospital should be accessed from Silver Pines. There is a tight bend and a blind corner in Silver Pines at the access.
- Bin lorries can't access rear of Silver Pines due to cars parked on roads and residents have to bring bins to front of the estate.
- Concern that the traffic light crossroads between Silver Pines/The Chase and Woodford will not cope with the increased traffic through to the new apartments in the St Joseph's building.
- Issue with no right turn into the development when travelling from N11 along Leopardstown Road. Traffic will increase on Brewery Road as a result and there are already significant traffic problems/tail backs on this road.
- On Brewery Road, there is an entrance to Silver Pines and the Chase, pedestrian lights at the entrance to the Luas, lights at the Leopardstown Avenue junction and a dangerous entrance to the Grange from any traffic turning right. Any increase in traffic on Brewery Road will make a bad situation worse.
- Difficulty egressing from Tudor Lawns at present, which will become more hazardous with increased traffic on the roads.
- Question over TIAs predictions of existing traffic and the data informing the accompanying analysis.

- Concern about impact of parking of construction workers. Silver Pines access road is very narrow with no yellow line parking measures.
- Service and delivery vehicles will find it difficult to enter and leave the site.
- Noise and dust from construction work. Construction hours should be between 8am-6pm Monday to Friday.
- Excavation of granite and impact on stability of houses nearby.
- Construction noise and light pollution.
- The Traffic and Transport Assessment and Mobility Plan clearly shows in Figure 7.1 that 80% of traffic exiting in the morning will make use of the Silver Pines exit and 70% of traffic entering. In section 6.2.4 of the report the estimated number of journeys from 8-9am exiting at Silver Pines would be 53 (80% of 67) and entering would be 19 (70% of 27). 72 cars entering and exiting the estate during a 1-hour period is enormous.

#### Natural Heritage

- Adversely impact on the bio-diversity of the area, trees and wildlife.
- Additional trees will be lost due to impact of construction on tree roots.
- There should be a preservation on the trees on the site.
- Removal of trees will result in flooding.
- It is unclear what trees are being removed.
- Planting along the boundaries should consist of evergreen trees in order to protect privacy.
- The lack of green space within the development and the planned pedestrian access into the Leopardstown estate suggests that the development will be dependent on the existing Leopardstown estate green space.
- Destruction of wildlife and carbon absorbing plants with the development of the site.

#### EIA



- Previous application stated 1750cum of granite would be removed to construct basement car park. No mention of granite being removed in submitted EIAR. It is stated that 34,652cum of material will be removed, but doesn't specify what this will be. Therefore the impact has not been properly considered.
- As there will be a clearance of granite from this development there may be issues with drainage etc. It is possible that the granite aided with drainage in the locality which will be no longer the case
- Environmental Impact Assessment Screening Report is inadequate and deficient.
  - Public deprived of opportunity to view reports such CE Report prior to making submissions, which reports contain relevant information in relation to EIAR.
  - Scoping exercise inadequate as it is not clear what statutory bodies were consulted and their submissions.
  - The Board lacks ecological and scientific expertise.
  - EIAR and Construction and Waste Management Plans provide insufficient information in terms of potential pollution and nuisances arising.
  - Insufficient information to assess risk of human health (such as noise/dust/vibrations etc and mitigation relevant to same).
  - Not appropriate to leave matters to be agreed with planning authority where impacts on human health at construction stage via construction management plan (noise/dust/vibrations).
  - Criteria considered and documentation submitted does not comply with requirements of the 2000 Act, 2016 Act, or associated Regulations, or the EIA Directive.
  - Having regard to the potential for cumulative impacts with this development and other SHD developments, and noting the size of the proposed development, the EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.

- The Population and Human Health Chapter of the EIAR is inadequate in that it fails to assess the impact of an increased population in the area on services including schools, childcare and medical care.
- Population and Human Health chapter fails to address impact of reduced sunlight on Human Health.
- The impact on biodiversity and human health during construction and operational phases is inadequate and lacking in terms of detail. The EIAR is insufficient in this regard. The impact on all species identified on site has not been addressed, including frog species.
- Biodiversity inadequate as while it refers to document 'Assessment on the Potential of Collision Risks for Birds', it fails to consider the report in the EIAR.

#### Screening for AA

- One observer submission considers the information is 'insufficient, contains lacunae, and is not based on appropriate scientific expertise', with the following concerns highlighted:
  - There are inadequacies and lacunae in the AA Screening Report and the Board does not have sufficient and/or adequate information to complete an AA Screening.
  - The AA Screening assessment does not provide sufficient reasons or findings. Conclusions/statements do not identify any clear methodology and no analysis.
  - The Screening Assessment is flawed as it does not consider all aspects of the development, such as construction compounds and haul roads.
  - Screening is flawed as it does not consider all aspects of the development such as construction compounds and haul roads.
  - Insufficient surveys to assess potential impact arising from bird collision/flight risks as the proposed development may impact flight paths.
  - The Zone of Influence in the Screening Report is not reasoned or explained.

- NIS fails to identify and consider all potential impacts on protected bird species, including potential collision flight risk during construction and operation and the loss of ex-situ feeding sites.
- No regard/inadequate regard to the cumulative effects of the proposed development in combination with other development in the vicinity on the protected sites.
- AA Screening Report has regard to mitigation measures contrary to Habitats Directive.
- Insufficient site specific surveys carried out for purposes of screening, based on absence of site specific scientific evidence.
- Inadequate reasons in conclusions.
- Reference to and reliance on Ringsend WWTP is misconceived for screening purposes.
- AA Screening Report refers to impacts identified in EIAR, however does not explain how such impacts can be discounted in respect of impacts on conservation objectives of identified SACs and SPAs.

#### Other Matters

- Insufficient legal interest in respect of seven existing dwellings on Leopardstown Road. Letter of consent is not on headed paper. A number of the properties are not in the ownership of Homeland CHB Ltd. The Board should request clarification on this matter.
- Drawings inaccurately identify boundary trees on site and neighbouring ridge heights as high as 5 storeys. This is incorrect.
- One of buildings included for demolition is incorrectly named in documentation, invalidating the application.

## **8.0 Planning Authority Submission**

### 8.1. Overview

8.1.1. In compliance with section 8(5)(a) of the 2016 Act, Dun Laoghaire Rathdown County Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 19<sup>th</sup> November 2021. The submission includes several technical reports from relevant departments of Dun Laoghaire Rathdown County Council (DLRCC). The Chief Executive's Report concludes that it is recommended that permission be REFUSED. The CE Report is summarised hereunder.

#### 8.1.2. **Summary of Inter-Departmental Reports**

- Drainage Planning Report – Requirements of Drainage Planning generally satisfied subject to conditions.
- Housing Report – Condition recommended in accordance with Part V of the Planning and Development Act 2000, as amended.
- Transport Report – Car parking deemed substandard to DLRs required standards and should be refused; details required in relation to design of bus stop and cycle track, condition recommended; Quality Audit was not completed by an independent Audit team and is therefore inadequate, refusal recommended; transportation request connection from Sir Ivor Mall into the site, refusal recommended; no set-down provided for delivery vans/maintenance at ground level from Silver Pines and Leopardstown Road and autotrack does not cover basement area, refusal recommended; some cycle parking rooms are inaccessible, cycle layout not clear, only one basement access lift proposed which is inadequate, and access ramps should be designed to cater for segregated cycle access, refusal recommended; number and distribution of disabled spaces to be reconsidered, condition recommended; future proofing of basement car park with adequate electrical ducting has not been demonstrated, condition recommended.
- Parks Report – Refusal recommended on basis of: lack of transparency in relation to tree retention being realistic and sustainable; assumptions and uncertainty in this application especially in the Arborists report and lack of coordination with EIAR; 3D visual analysis absent to demonstrate the impacts on existing Trees and vulnerability of a changed hydrological flow pattern that may or may not impact the existing mature Trees especially during the drier months of the year; Neither Arborist or Landscape drawings detail impacts of any proposed services that shall disturb the

existing ground conditions; the applicant has not clearly highlighted exact measured areas for Public open space, Communal open space, useable space for play provision indicating clearly the area size dimensions onto the landscape drawings; Applicant to retain services of the Arborist throughout the entire project on a minimum of a weekly basis; to provide more playable options for all age groups e.g 'kickabout' areas; tree bond required.

- Conservation Report - no built heritage objections regards the above proposed development. The additional unit proposed within the Protected Structure poses no major concerns. Block A appears unchanged in height and positioning and in that regard the setting of the Protected Structure will not result in any additional impact from that permitted under D17A/0337.
- Environment Section Planning Report – conditions required in relation to Construction & Demolition Waste Management Plan and Construction and Environmental Management Plan.
- Public Lighting Report – Condition recommended in relation to the desired lighting class being met.
- Section 49 Luas contribution applied, in addition to Section 48 contributions.

#### 8.1.3. **Summary of View of Elected Members:**

A summary of the views of the relevant elected members as expressed at the Dundrum Area Committee Meeting held remotely on the 27th October 2021 were recorded as follows:

- Roof gardens should not be included in the public open space calculation.
- The quantity of public open space proposed seems inadequate given the density proposed.
- Construction hours are too long given the proximity to the Laura Lynn Childrens Hospice and residential development in the area. It is recommended that the construction working hours are conditioned.
- The development will give rise to noise pollution.
- There should be a construction workers car park provided on site in order to reduce parking overflow to the surrounding areas.

- It is welcomed that the development is not a Build to Rent development.
- Tudor Lawns have been looking for traffic lights. This development will generate more traffic in addition to the Leopardstown Racecourse traffic.
- Concerns regarding whether or not there is in fact available school places in the area when existing local residents cannot get their children into local schools.
- A number of school places have been identified by the applicant as having capacity for future students and these are located outside of the catchment area.
- Concern regarding the availability of GP services in the area.
- Concern regarding the rise in local population and the resulting impact.
- There is not enough car parking spaces proposed and there is still a requirement for car storage for recreational use. The car parking provision is not in line with the Council's requirement and will result in overspill to surrounding areas.
- The site is located 2 minutes from Sandyford Urban Framework Plan where, as part of the County Development Plan review, the Councillors voted that a maximum parking provision of 0.6 spaces per unit be provided. This development is outside the Sandyford Urban Framework Plan area.
- The quantity of bike parking is welcomed.
- Concern is raised about the reliance for cyclists to use a bike lift which is not suitable for people with accessibility issues.
- Concern is raised that the development proposes to downgrade the status of the cycle land on Leopardstown Road going from off road, as currently is the case, to on-road. It was recommended that the cycle lane pass behind the bus stop.
- It is recommended that the pedestrian entrance outside the cafe on Leopardstown Road is offset in order to stop people pulling up on Leopardstown Road.
- A bus stop should be provided outside the site on Leopardstown Road.
- Concern regarding the scale, bulk, height and density of the proposed development which is not in keeping with the surrounding area and development plan.

- The development materially contravenes the Development with regards to mix, transitional zones, density and appendix 9 in terms of height which states that 3-4 storeys should be provided.
- The applicant justifies the proposed development due to its proximity to the Luas however the Luas is already at capacity.
- The development will result in overlooking to the properties at Leopardstown Lawn.
- Concern regarding the separation distances between the proposed development and the surrounding area.
- The provision of passive surveillance from the development which overlooks pathways is welcomed.
- The development constitutes overdevelopment of the site.
- Concern regarding the lack of a transitional zone between the existing 2 storey housing and the proposed 10 storey apartments.
- Concern regarding the transition between F and A zoned land.
- Concern regarding the lack of transition between the protected structure and the proposed development.
- Concern regarding the lack of protection for bats and frogs.
- There is a lack of 3 bed units proposed.
- The quantity of 2 bed units proposed is welcomed.
- Concern regarding the impact of the development on the foul and water services which were highlighted by An Bord Pleanala and the overall capacity of the waste water network in the area.
- Concern regarding the cumulative effect of residential development on Leopardstown Road.
- Concern that Dun Laoghaire Rathdown County Council provided a letter of consent to the applicant to widen the Leopardstown Road.
- The Strategic Housing Development process is flawed.

- Concern regarding sustainability.

#### 8.1.4. Planning Analysis

A detailed assessment was received from the planning authority, which I have summarised hereunder and refer to as appropriate throughout my assessment. The report is summarised as follows:

##### CE Comment, Building Height:

- Planning Authority raise serious concern regarding the proposed height of block C at 7 no. storeys and block F at 6 no. storeys at the eastern and western boundaries of the site, which would appear visually incongruous on the streetscape and would provide for an unsatisfactory transition in scale with the adjoining two storey houses. Furthermore, it is considered that the height and massing of the development relative to the adjacent 2 storey housing at Sir Ivor Mali, Minstrel Court, Silver Pines and Leopardstown Lawn and single storey Anne Sullivan Centre is unacceptable and would not integrate with the existing area and would unduly impact on the character and visual amenity of the receiving environment.
- The application site is located outside both the core and outlying areas of the Sandyford District, where increased heights of 6-8 storeys are permitted. The proposed development should, therefore, be more modest in scale in the interest of protecting the legibility of the area and reinforcing the primacy of Sandyford District. There is, however, an urban design argument to be made for articulating the junction between the greenway to the northeast of the site and Leopardstown Road, and the confluence of the routes through the site, by way of a modest increase in building height or otherwise.
- It is considered that the height, in addition to the scale, massing and layout, constitutes overdevelopment of the site. The Planning Authority considers that the development fails to meet the criteria set out in Section 3.2 of Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authority, December 2018, in that at the neighbourhood street level, the proposed development, ranging in height from two to ten storeys fails to integrate with the two storey housing at Sir Ivor Mall, Minstrel Court and Leopardstown Lawn. As a result the development would be entirely out of character with the established pattern of development in the area, would appear visually overbearing when viewed



from adjoining properties and would create an abrupt transition in scale and typology.

CE Comment, Density:

- The proposed density is at the higher end of the spectrum for the County and is indicative of a scheme that exceeds the capacity of the site, having regard to its location and surrounding context. In this regard the proposal does not respond satisfactorily to the surrounding lower density development (generally 2 storey dwellings). It is considered that such density and consequent design implications could have a material impact on future residential amenity and on existing residential and visual amenity as well as local infrastructure and services contrary to section 2.1.3.3 Policy RES3 and section 8.2.3.2 (ii) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 which seek to ensure a quality environment.

CE Comment, Standards of Accommodation:

- The proposed number of 3-bedroom units at 2.8% is not considered to deliver on the requirements of Policy RES7. In addition, the provision of 85 no. studio apartments which constitutes 18% of the mix is alarming and considered excessive considering their limited size ranging between 37-40.5sqm. It is considered that a scheme of this scale, should deliver a mix of units capable of catering for all profiles of residents, including families with children.

CE Comment, Impacts on Residential and Visual Amenities:

- Concern regarding the following minimum separation distances in terms of overbearance, overlooking and loss of privacy: 15.1m between Blocks B and C; 24.7m between Blocks A and B.
- Along the western boundary of the site, a separation distance of a minimum of 19.3m is proposed from the rear facade of block F (at 3 no. storeys) to the first-floor windows of dwellings at Sir Ivor Mall. A minimum separation distance of 20.5m, with heights of 3 no. storeys are noted between block F and Minstrel Court. The proposal given the 3 no. storey height proposed and the limited separation distance would result in proposal being visually overbearing, obtrusive, and will significantly overlook the dwellings in Sir Ivor Mall and Minstrel Court.

- Serious concern regarding the positioning of block D which is proposed at a height of between 8-10 no. storeys at a minimum of 25m from the boundary with the Anne Sullivan Centre, which cares for deaf and blind people and is considered a sensitive land use. The positioning of the development to the south of the Anne Sullivan Centre will overshadow, overlook and overbear the residents of the centre. The applicant has not included any viewpoints in the Landscape Visual Impact Assessment from the Anne Sullivan Centre to examine the impact of the development on this sensitive land use. This is considered a serious omission.
- Overshadowing caused by the development on the dwellings and their private amenity space to the north and west of the site at Silver Pines, Minstrel Court and Sir Ivor Mall.
- Concern is raised regarding the impact of the proposed development on the vertical sky component (VSC) on 2 no. dwellings at Sir Ivor Mall, 4 no. dwellings at Minstrel Court and 4 no. dwellings at Silver Pines. In these instances, it is noted that the VSC is reduced to below 0.8 times its former value which is the BRE Guide for adverse impact.
- Dwellings located to the east of the site at Leopardstown Lawn will also be negatively impacted by overshadowing from the proposed and concern regarding the vertical sky component (VSC) on dwellings to the east of the site at Leopardstown Lawn.
- Serious concern regarding the potential for the development to overshadow the north facing windows on the Laura Lynn Childrens Hospice building, which is described in the EIAR as moderate to significant impact.

CE Comment, Conservation:

- No major concerns. It is noted that the height proposed in Block A at 5 no. storeys and the separation distance to St. Josephs at 25m remains unchanged from that permitted under D17A/0377.

CE Comment, Open Space, Public Realm and Trees:

- A significant number of open spaces are incidental and cannot be considered open space. For example the areas along the north-eastern boundary of the site cannot be regarded as usable open space, having regard to their limited width and

their function as pedestrian thoroughfares. The main through route through the site linking the Leopardstown Road to the greenway is also a pedestrian thoroughfare. Quantum of open space is considered to be insufficient for a high-density development of 463 no. units. Should An Bord Pleanála consider granting planning permission, it is recommended that block F is omitted.

- The communal area of open space located between blocks A and B and between blocks B and C are likely to receive less sunlight than the BRE Guide recommendation. Regardless of whether these spaces should be included in the open space calculation, a separation distance is required between blocks A and B and blocks B and C in order to provide relief between the scale of the development proposed rising from 5 to 7 storeys. As noted in the Apartment Guidelines, 'Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year'.
- Concerns regarding quality of communal terrace in block D, as per Wind And Microclimate Chapter of EIAR.
- 4no. units in St. Josephs do not have a private amenity space by way of a terrace. Having regard to section 6.9 of the Apartment Guidelines, this is acceptable.

CE Comment, Public Realm:

- Design of the public realm between blocks B, C and D which having regard to the height proposed is considered restricted in width and will create an enclosed and overbearing environment at the entrance to the site. Having regard to the height proposed in this location which ranges between 5 - 10 no. storeys and the minimum separation distance of 14.5m, it is considered that the proposed development will overbear and enclose the public realm and entrance to the development.

CE Comment, Trees:

- A greater number of category B trees could have been retained on the site. The applicant has not achieved a suitable balance between tree retention and making sustainable use of the land. It is considered that tree nos. 268 and 274 which are B category trees and located on the north-eastern boundary of the site should have been retained in order to accord with the tree preservation objective on the site. Furthermore, there are other notable category B trees located in the most eastern

corner (e.g tree no. 1716 - Scyamore) of the site and in the western corner of the site (e.g. Tree no. 32 - Austrian Pine) which are proposed to be removed and are examples of the overdevelopment of the site in close proximity to the boundaries.

CE Comment, Access Car and Bicycle Parking:

- Conditions by Transportation recommend requiring a 2m wide footpath either side of the main entrance and a 2m wide cyclepath along Leopardstown Road. Considering the quantum of development proposed and the positioning of blocks F, D and C and their associated terraces a minimum of 3m from the proposed public footpath, the proposed development is considered to be excessive overdevelopment of the subject site, which has a result creates a limited area for the public realm along Leopardstown Road.
- Furthermore, a comparison of the letter of consent map, the taking in charge drawing and the site plan identifies that work proposed in the public realm at the vehicular entrance to the site off Leopardstown Road, which are excluded from the taking in charge areas on the public footpath and cycle path are located on land currently in charge of Dun Laoghaire Rathdown County Council. This is a clear representation of the overdevelopment of the site which due to the significant footprints of the buildings, cannot provide the public realm on land within its ownership.
- It is recommended that a minimum footpath width of 3.5m is provided along Leopardstown Road, in addition to a 2m wide cycle lane, all to be provided north of the existing kerb line. Furthermore, it is recommended that the cycle lane is located to the rear of the bus stop. It is noted that should An Bord Pleanála include this condition it may impact the positioning of the apartment blocks which may be required to move further north.
- As highlighted in the Transportation Planning report, it is noted that the Quality Audit was not undertaken by an independent audit team. Transportation Planning recommend that the application be refused on this basis.
- No set down area for delivery vans or maintenance is provided for. Given the design of the public realm between blocks D, Band C which is considered to be particularly tight due to the overdevelopment of the site, there is a serious concern by the Planning Authority that the cycle lane and footpath outside the development

or the bus stop on Leopardstown Road will be used as a set down area for deliveries or drop off. Given the positioning of the concierge on the north-eastern elevation of block D, it is considered that the area adjoining or opposing the concierge would have been a suitable set down area. Should An Bord Pleanála consider granting planning permission, it is recommended that this is addressed by way of condition.

- Car parking ratio of 0.46 spaces per unit proposed. Car parking ratio of one space per unit is requested, which would cater for car storage and prevent the overspill of car parking to adjacent residential estates.
- 968 no. cycle parking spaces proposed of which 152 no. spaces will be at ground level. Quantum of cycle parking is in excess of the requirement set out in the Apartment Guidelines. Given the reduced quantum of car parking, the proposed quantum of cycle parking is welcomed. However, number at ground level is inadequate.
- Overall, concerns regarding the omission of autotrack details for the basement, amendments to the design of Leopardstown Road, the inaccessibility of cycle parking rooms, the provision of bicycle share facilities, the type of cycle parking provided in relation to cargo bikes and sheffield stands, the provision of a single bicycle lift for a development of 463 no. units, conflicting information regarding the quantum of cycle parking proposed, the location of disabled parking spaces, the future proofing of the basement with electrical ducting and the provision of a segregated cycle track to the rear of the bus shelter.

CE Comment, Childcare:

- Scale of play area 2 considered inadequate with width of 1.5 to 2.09m proposed.

CE Comment, Development Contributions:

- The proposed development is located within an area subject to supplementary Section 49 development contributions in respect of the Luas Line B1 extension.

CE Comment, Taking In Charge:

- The Planning Authority have compared the letter of consent map, the site plan and the taking in charge drawing. It has become apparent that a significant proportion of the land proposed to be taken in charge is already in charge of by Dun

Laoghaire Rathdown County Council. It is recommended that the Board examine the proposed areas to be taken in charge.

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

Dún Laoghaire Rathdown County Council Chief Executive's Report recommends a REFUSAL based on the following reasons:

1. Having regard to the proposed height, scale and separation distances to the boundaries, it is considered that the proposed development would appear visually obtrusive and overbearing when viewed from the properties at Sir Ivor Mall, Minstrel Court, Silver Pines and the Anne Sullivan Centre. Furthermore, the proposed development would negatively impact the sunlight and daylight of properties at Sir Ivor Mall, Minstrel Court, Silver Pints, Leopardstown Lawn, the Anne Sullivan Centre and the Laura Lynn Childrens Hospice to an unacceptable extent. The proposed development would significantly detract from existing residential amenity and would depreciate the value of these properties, materially contravening the zoning objective A, which seeks 'to protect and or improve residential amenity' as set out in the Dún Laoghaire Rathdown County Development Plan 2016-2022.
2. The proposed development, by reason of its overall scale, massing, layout and height would constitute overdevelopment of the site. Having regard to the proposed separation distances between the apartment blocks, the proposed development if permitted, would result in overlooking of habitable rooms and create a substandard level of residential amenity for future occupants of the proposed residential scheme and would be contrary to the Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
3. The proposed development fails to meet the criteria set out in Section 3.2 of Specific Planning Policy Requirement 3 of the Urban Development and Building Height Guidelines for Planning Authority, December 2018, in that at the neighbourhood/street level, the proposed development, ranging in height from two to ten storeys fails to integrate with the two storey housing at Sir Ivor Mall, Minstrel Court and Leopardstown Lawn. The proposed development would therefore result in a visually dominant and overbearing form of

development when viewed from Leopardstown Road, Sir Ivor Mall, Minstrel Court, the Anne Sullivan Centre and Leopardstown Lawn and would seriously injure the amenities of the area.

4. Having regard to the intermediate urban location of the site, it is considered that the proposed development would, by reason of the inadequate number of car parking spaces provided to serve the future occupants and visitors to the development, 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 Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the proposed planning and sustainable development of the area.

- 8.2.1. Suggested conditions are attached should the Board be minded to grant permission, however, it is stated that 'some of the PAs concerns cannot be dealt with by way of condition. In this regard the increase in separation distance between the proposed development and the boundaries of the site would involve a complete redesign of the site layout which would not be achievable by way of condition'. Some of the conditions recommended are noted hereunder:

- C2: Block F to be omitted in its entirety; Floor 4, 6, 7 and 7 of Block D to be omitted in their entirety, with maximum height of 6 storeys; 1<sup>st</sup> floor in Block C to be omitted with maximum height of 6 storeys; 1<sup>st</sup> floor in Block B to be omitted with maximum height of 6 storeys.
- C3: Works to St. Joseph's to be completed prior to occupation of Blocks A-D.

## 9.0 Prescribed Bodies

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

- Irish Water
- Transport Infrastructure Ireland.
- National Transport Authority
- Minister for Culture, Heritage and the Gaeltacht (built heritage)
- Heritage Council (built heritage)

- An Taisce — the National Trust for Ireland (built heritage)
- The relevant Childcare Committee
- The Department of Education and Skills

Four of the bodies have responded and the following is a summary of the points raised.

#### 9.1. An Taisce:

The submission received is summarised hereunder.

Development is inappropriate for following reasons:

- Overall height, scale and massing – proposal would have an overbearing impact and would adversely affect the setting of St. Joseph’s House and Arkle Square.
- Material contravention of the development plan and its building height strategy.
- Density – overdevelopment of the site.
- Traffic, Transport and Car Parking - An assessment of the capacity of the Luas Green Line service to accommodate additional passengers required.
- The proposed work on the Protected Structure should at all times be under the supervision of a conservation architect. We also call for a condition that the works to the protected structure at Saint Joseph’s House should be completed prior to the occupation of Blocks A to D.

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

Conditions recommended.

Nature Conservation –

- Of the trees on the site, 51%, 142 of 277 trees individually identified in the tree survey submitted in support of this application, are to be removed to facilitate the development proposed, as well as the great majority of shrubs and hedging plants. Considerable nesting habitat will be lost. The bird species concerned however are all commonly nesting suburban species with the exception of the long-eared owl, which was only recorded once on the site and was not considered to be nesting there.



Consequently such loss of nesting habitat can only be assessed as significant at a local level, and must be weighed against the benefits to wildlife in general of focusing residential development on infill sites in suburbia, such as the present site, rather than allowing such development to expand into rural areas. In the longer term too the loss of nesting habitat will be mitigated by the nest sites which will become available and as a result plantings of trees and shrubs in the landscaping of the proposed development, which is to include 200 new trees.

- The developer has applied for licences to derogate from this directive to destroy the soprano pipistrelle roosts in Alhambra and Dalwhinnie, and interfere with the Leisler's bat roost in St. Joseph's House from the National Parks and Wildlife Service (NPWS) of this Department. Because of the small numbers of bats involved the loss or interference with these roosts was considered insignificant and the derogation licences requested were consequently granted.
- Frog spawn was identified in the remains of a garden pond in one of the properties on the development site. As the frog is a protected species measures will be required to protect any spawn or tadpoles present on the site when development commences.
- The Department of Housing, Local Government and Heritage does consider that surface water drainage from the development site may reach Dublin and Killiney Bays from the development site, as surface water sewers seem to connect it to the Brewery Stream which empties into Dublin Bay at Maretimo near Blackrock, but also has some of its water diverted to the Clonkeen Stream which enters Killiney Bay, however because of the distances involved, the levels of dilution and the mitigation measures to prevent water pollution arising from the development site set out in the outline Construction Environment Management Plan supporting this application, it accepts that there is no likelihood of the development affecting any Natura 2000 site and also therefore the conclusion of the AA Screening report.

Archaeology -

- The National Monuments Service (NMS) of the Department of Housing, Local Government and Heritage agrees with the recommendations outlined in Chapter 16 of the EIAR.

### 9.3. Irish Water:

No objection. Conditions recommended. The following is stated in relation to wastewater:

- Connection for the proposed development is feasible subject to flows from the entire development site being limited to 5l/s and the delivery of an Irish Water project to augment the bifurcation of sewers at the Leopardstown Road and an existing Irish Water storage tank at Burton Hall Road. This upgrade project is currently ongoing and is scheduled to be completed by 2023 (this may be subject to change). Work on these assets will be in the public domain.
- Provision for a gravity bypass should be included in the developments pumped solution design, which will need to be decommissioned at a future date. The developments pumping station will be the responsibility of the developer to operate, maintain and decommission. The details of the pumping station, operational requirements and bypass will be subject to any future Connection Agreement for the development.

9.4. Transport Infrastructure Ireland: The proposed development falls within an area set out in a Section 49 Levy scheme for Light Rail.

## 10.0 Oral Hearing Request

10.1. Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
- (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

10.2. Two no. observer submissions have requested an oral heading. Issues raised are summarised as follows:

- Incorrect name on one of buildings to be demolished (Marian Villa named Madonna) therefore application invalid.

- Impact of high rise, high density development on Silver Pines. The Chase and adjacent areas.
- Impact on St. Joseph's House and its curtilage.
- Environmental Impact on trees and wildlife.
- Height and density are excessive and will have a significant negative impact on residential amenity in terms of visual impact, overlooking and loss of privacy, loss of light levels, generation of traffic and overspill parking.
- Height materially contravenes the development plan.
- Density is excessive for what is not an urban centre.
- Residential mix – too many studio and one bed apartments.
- Location of Part V in one block.
- Lack of open space within the site.
- Lack of water, sewerage and road infrastructure etc.
- Flood risk not demonstrated.
- Road safety and Silver Pines access for pedestrians/cyclists.
- Traffic hazard from allowing all traffic the option to access via Silver Pines.
- Inadequate TTA.
- Inadequate waste collection path and inadequate sight triangles.
- Inadequate surface water and foul water proposals.
- Impact on broadband.
- Car parking insufficient.
- Impact of construction activities.
- Radon exposure.
- Material Contravention.

10.3. 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. I do not consider that there is a compelling case for an oral hearing in this instance. Having regard to the

information on file, to the nature of the proposed development and to the location of the development site, I therefore recommend that an oral hearing need not be held.

## **11.0 Assessment**

### **11.1. Introduction**

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

- Zoning / Principle of Development
- Density
- Development Layout and Permeability
- Height, Scale, Mass and Design
- Landscape and Visual Impact
- Biodiversity, Ecology and Landscaping
- Quality and Residential Amenity of Proposed Development
- Impact on Amenity of Neighbouring Properties
- Impact on Protected Structure and ACA
- Traffic, Transportation and Access
- Water Services, including Flood Risk
- Material Contravention
- Planning Authority Refusal
- Other Matters

These matters are considered separately hereunder.

11.1.2. I have carried out an Environmental Impact Assessment and Appropriate Assessment Screening in respect of the proposed development, as detailed later in this report.

11.1.3. Each section of the report is structured to guide the Board to the relevant section of the EIAR, AA Screening, relevant policy, substantive issues raised in the submissions / observations and the applicant's response as appropriate.

## 11.2. Principle of Development

11.2.1. The proposed development proposes the demolition of ten dwellings on the site and the construction of 463 apartments across five blocks, the conversion of St. Josephs House (protected structure) into 9 apartments and a childcare facility, and a café at the ground level of Block D, in addition to residential amenity spaces at the ground level of Block D. The site is governed by zoning objective 'A', in which residential development is 'permitted in principle'. I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

### Demolition Works

11.2.2. The proposed works include the demolition of ten dwellings and later additions to the protected structure. The demolition of the dwellings is considered necessary to facilitate the proposed development works. The dwellings to be demolished are of no significant architectural merit and the elements of the protected structure are related to later additions to the original structure and of no architectural merit. I am of the opinion that the demolitions are acceptable in principle on these lands, as are works to the protected structure.

11.2.3. I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development within the existing urban envelope. It is recognised that a significant and sustained increase in housing output and apartment type development is

necessary. It recognises that at a metropolitan scale, this will require focus on underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development. I am of the opinion that given its residential zoning, the delivery of residential development on this prime site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. I therefore consider the proposal to be acceptable in principle, subject to assessment of other planning matters. The planning authority concurs that the proposed development is acceptable in principle.

### 11.3. Density

- 11.3.1. The proposed development of 463 units (of which 9 apartments are located within the protected structure of St. Joseph’s House) on a net site area of 2.58ha, results in a net density of 179 units per hectare.
- 11.3.2. The CE Report considers that the proposed density is at the higher end of the spectrum for the County and is indicative of a scheme that exceeds the capacity of the site, having regard to its location and surrounding context. Observer submissions also raise concerns in relation the density of the scheme at this location, which it is submitted is suburban in nature and characterised by low density housing.
- 11.3.3. I consider hereunder national policy and the locational context of the site. Issues arising in relation to impact on residential amenity of the development are considered further in section 11.9 of this report. In terms of the national policy context, the National Planning Framework (NPF) 2018 promotes the principle of ‘compact growth’ at appropriate locations, facilitated through well designed higher density development. Of relevance is NPO 13, 33 and 35 of the NPF which prioritise the provision of new homes at increased densities through a range of measures including (amongst others) in-fill development schemes and increased building heights. The RSES for the region further supports consolidated growth and higher densities, as per Regional Policy Objective (RPO) 5.4 which states that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards. In relation to Section 28 guidance, the documents Sustainable Residential

Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, all provide further guidance in relation to appropriate densities and support increases in densities at appropriate locations in order to ensure the efficient use of zoned and serviced land.

- 11.3.4. The DLR County Development Plan 2016-2022 under RES3 promotes higher densities in appropriate locations, including within the catchment of high-capacity public transport, and seeks to 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. Under S.2.1.3.3, higher densities at a minimum of 50 units per hectare will be encouraged. The development plan further states under S.8.2.3.3 5 'the objective is to optimise the density of development in response to type of site, location and accessibility to public transport. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied'.
- 11.3.5. The subject site is located approx. 600m-700m from two Luas stops. There are high frequency bus services within approx. 1km of the site on the N11, with bus services of lesser frequency immediately adjoining the site on the Leopardstown Road and on Brewery Road. The site is within walking distance of local shops/services, amenities, and high-density employment areas. The site is highly connected in terms of walking/cycling facilities, with a greenway along the north/northeastern boundary of the site and cycle facilities along both sides of the Leopardstown Road, connecting into the Leopardstown Junction and extending west as well as north/south on Brewery Road. The site, in my opinion, given its proximity to public transport and services is appropriately located for a minimum net density of 50 dwellings per hectare, as per the Apartment Guidelines and guidelines on Sustainable Residential Development in Urban Areas. I therefore consider a density above 50 units per hectare to be appropriate for this site and in accordance with local and national policy, subject to a qualitative assessment in terms of design and amenity standards, which is discussed in detail in other sections of this report.
- 11.3.6. I note that the matter of density has been addressed in the submitted Material Contravention Statement where it is indicated that the Board may consider the

density level of greater than 50 dwellings per hectare a material contravention if it considers the quality of both the existing and proposed residential development is negatively impacted. I do not consider that the proposal represents a material contravention in relation to density and I consider the objectives of the plan are clearly stated in this regard. I address this separately in Section 11.13 hereunder.

#### **11.4. Development Layout, Permeability and Open Space Provision**

- 11.4.1. The layout of the scheme has been informed by the existing site context, the predominant factors being the protected structure on site, existing neighbouring dwellings, urban design response to Leopardstown Road, and location of existing pedestrian/cycle greenway adjoining the north/northwestern boundary.
- 11.4.2. Permission was previously granted on a portion of the site, including St. Josephs and three of the dwellings fronting Leopardstown Road, with this application site area extended to include seven additional dwellings along Leopardstown Road. The previous application (see page 4 of the submitted planning report for previous layout) permitted 131 residential units, including two apartment blocks, in the same location and with the same footprint of the now proposed Block A and Block B. I note the height of Block A previously permitted was four storeys with fifth floor set back (as per current proposal) and Block B was also previously 5 storeys (current proposal is for 7 storeys).

##### Block and Street Layout

- 11.4.3. It is proposed to build five number blocks, with the main vehicular access points being from Leopardstown Road and through Silver Pines estate, via an existing access. There are additional pedestrian only access points from Leopardstown Road given the open boundary with the street and also two pedestrian only access points onto the existing pedestrian/cycle greenway along the northern boundary of the site, which links Leopardstown Road and Brewery Road and provides for a direct pedestrian/cyclist connection to the Luas stop to the west. The majority of the internal streets are for pedestrians/cyclists only, with the entrance to the basement car park between Block B and C accessed immediately upon entering from Leopardstown Road. Vehicular entry to the basement area is also supported under Block A via the access from Silver Pines, north of the forecourt area of the protected structure.



11.4.4. I consider the overall street/pedestrian network proposed, which allows for pedestrian/cyclist movement across the development and into the surrounding areas, will result in a highly permeable layout, which is a positive element of the scheme in terms of accessibility and movement of people via active modes.

#### Public Realm

11.4.5. With regard to public realm, I consider specifically the manner in which proposed buildings/spaces address Leopardstown Road and the quality of the urban edge to the internal streets/open spaces/pedestrian paths.

11.4.6. The current boundary to Leopardstown Road comprises high boundary walls and gates serving individual dwellings. Leopardstown Road itself is quite wide, comprising three lanes and a cycle path on both sides, and appears to be heavily trafficked, linking as it does the N11 to the evolving Sandyford high density business/residential area and to the M50. Given the low scale of development immediately adjoining and opposite the site on Leopardstown Road and the lack of an active frontage provided by the existing buildings on site, I consider the urban character at this location to be weak, resulting in a poor pedestrian environment. The proposed Blocks F, D and C are positioned at various angles to the Leopardstown Road, with buildings addressing the street and providing for a number of entry points between blocks across the site. The scale of the development increases from immediately adjoining the boundaries with two storey developments to the west and east, with Block F being 3-6 storeys to the southwest, and Block F being 5-7 storeys to the southeast. The height increases in the centre to 8 and 10 storeys. This step up in scale at the boundaries of 3 and 5/7 storeys is not in my opinion negative, but rather signals a new urban form, whereby the street, ie Leopardstown Road, will become a more active space, providing for a built edge and improved sense of enclosure, as well as natural supervision and activity along the boundary and into/out of the site. In this regard, I disagree with the PA's reason for refusal no. 3 which considers the proposal would be visually dominant and an overbearing form of development when viewed from Leopardstown Road and adjoining developments. I discuss the issue of height further in section 11.5 hereunder.

11.4.7. The CE Report considers the proposed footpath width adjoining the Leopardstown Road at 2m to be inadequate and the set back of buildings from the footpath edge of

3m, given the height of the buildings, will result in overdevelopment of the site and creation of a limited area of public realm along the Leopardstown Road. The CE Report requests a 3m wide footpath is proposed, in addition to a 2m wide cycle lane, to be provided north of the existing kerb line. I have reviewed the new footpath/cycle path arrangement. From the site plan drawing, the proposed footpath measures 2.5m wide. Under DMURS, a 2.5m wide footpath is considered 'a desirable space for two people to pass comfortably; areas of low to moderate pedestrian activity'. I consider the width of the footpath at 2.5m at this location to be adequate. In the interests of clarity, a condition requiring a 2.5m footpath along this edge could be attached should the Board be minded to grant permission. I note the set back distance of 3m from Block D to the footpath edge, with intervening landscaping. I do not consider this block, or adjoining blocks, given their distance from the footpath edge would be particularly overbearing in this evolving urban context. I note an issue raised in relation to taken in charge areas and use of local authority land at the entrance. A letter of consent has been submitted from the PA, however, it is indicated in the CE report that extra land appears to be included at the proposed entrance. It is difficult to clarify the extent of any additional land take outside of that indicated in the letter of consent, however, I note there is capacity to use this space and the land take is not stated anywhere to result in a substandard road network, therefore, subject to consent from the local authority to undertake the works post any permission, I can see no issue with the layout as proposed and I do not consider the land take as indicated to be representative of overdevelopment.

11.4.8. Given the positioning of the blocks relative to Leopardstown Road, and having considered the variation in design, materials, and stepped approach to height, I consider the proposed development will provide for a positive interface and improvement to the public realm along Leopardstown Road. I have also examined the internal layout of the scheme, which is predominantly car free, and I note the proposed buildings address the pedestrian streets/paths and provide for a positive internal urban townscape. The improvement of the context of St. Joseph's in terms of parking and paving to the forecourt will also be an improvement to the setting and public realm of this protected structure. The addressing of the Greenway by Blocks A, B and C will further provide for additional activity along this frontage and increase of passive surveillance.

## Open Space

11.4.9. Section 8.2.8.2 of the DLR County Development Plan 2016-2022 requires public / communal open space to be provided at a rate of 15sqm to 20sqm per person on the basis that 3.5 persons would occupy dwellings having three bedrooms or more and 1.5 persons would occupy dwellings have two bedrooms or less. I note the development plan defines public open space as all areas of open space within a new development (be that public (taken in charge), communal, semi private or otherwise) that is accessible by all residents/ employees of the development and in certain cases may be accessible by the wider general public. A default minimum of 10% of the overall site area is required irrespective of the occupancy standards, where exceptionally high quality open space is provided on site and in such cases developments may be subject to financial contributions. In relation to financial contributions, section 8.2.8.2(iii) states where a new development is located in close proximity to (within 1km and/or 10 minute walking distance) an established high specification public park, the Planning Authority may, in certain cases, relax standards and seek a financial contribution in lieu of providing the full quantum of open space. Examples may include sites where stands of existing mature tree are required to be retained for amenity value that would otherwise compromise the usability of open space provision. Section 8.2.8.3 further states in relation to quality of open space, that 'Fragmented open spaces within a development layout, which result specifically from the necessity to protect existing site features (for example a stand of mature trees) may not be included in the calculation open space requirements, as they are necessary to ensure the protection of existing amenities'. It is also stated that 'Narrow tracts and corridors of open space which are difficult to manage - including provision of open space set within existing tree belts - will not be acceptable'.

11.4.10. 10% of the site area would equate to 2,580sqm. Based on population figures, there is a requirement of between 10,807.5sqm and 14,410sqm open space. The applicant states a total area of 10,885sqm of open space is proposed, of which 6680sqm is stated to be public open space (10.7% of the site), 3205sqm is stated to be communal open space (12.3% of site area) and three additional areas of 1000sqm are described as 'visual amenity spaces'. These visual amenity spaces relate to the existing tree belt to be retained to the west of St. Josephs at the

boundary with Silver Pines, a copse of trees to be retained to the front of Block D adjoining Leopardstown Road, and the area of open space between Blocks D and C.

11.4.11. The CE Report states the quantum of open space falls below the development plan standard of 15sqm to 20sqm per person, with a number of areas identified as open space clearly incidental and should not be included in calculations, for example the pedestrian path along the northern/northeastern boundary of the site and the pedestrian route through the development. The CE Report notes the submitted planning report on page 35 states the open space areas equates to 9885sqm, which excludes the 'visual amenity areas'. It is suggested that Block F should be omitted, due to impacts on neighbouring properties, and that as a result this would support an increase in quantum of open space. It is also noted that the area between Blocks D and C is included as a visual amenity area and both that space and the space between Blocks A and B (which is labelled as open space) do not meet BRE standards in terms of access to sunlight.

11.4.12. I have reviewed the quantum and quality of open space provision. I note that the absolute minimum of 10% of the site area is provided for as open space. The question arises as to whether the full amount when examined on a population basis is being provided and where it is not, is this supported by development plan policy and the quality of the proposed scheme. There are areas of open space included in the calculation which I agree with the planning authority are incidental spaces, such as the pedestrian paths through and around the scheme and the entrance area between Blocks F and D. There are in addition locations where linear bands and pockets of open space are generated by the requirement to protect existing trees, particularly along the northern boundary, which are not usable open spaces. While such spaces may not be calculable as open space in terms of the development plan requirements, I note areas where existing mature trees are required to be retained for amenity value the development plan provides for an allowance to drop below the space per person requirements in such instances. I note the close proximity of the existing sizeable public park on the opposite side of the greenway to Block A and St. Joseph's, which is directly accessible via pedestrian access points from the site onto the greenway and would be of benefit to future residents. Overall, I consider a reduction in the requirement of the population base level of open space is warranted in this instance, as per development plan allowances.

11.4.13. In terms of compliance with the BRE guidance in relation to the open space between Blocks A and B, I agree with the CE Report that this should be improved given it is the location of the main play area and is one of the larger blocks of functional open space available within the scheme. To this end, I consider floors 9 and 10 of Block D should be omitted to reduce the level of overshadowing, which would result in the loss of 6 apartments. I further consider the quality of the space between Blocks B and C could be improved from a labelled 'visual amenity space' to a quality functional open space. This space is in my opinion an important location for functional open space given the volume of apartments that this area would potentially serve (115 apartments in Block C and 88 apartments in Block B). To this end, given the limited separation distances between these blocks, as well as resultant overshadowing of the space to below BRE guidance standards, I consider the projecting side 4 storey section of Block B should be omitted, which would result in the loss of 8 apartments. This would improve the scale, function, and access to sunlight and daylight at this location and would significantly improve separation distances between the 7 storey blocks of B and C. I note concern raised in the CE report that the fifth floor external amenity space in Block D is suitable only for short term sitting and not long term sitting as per the wind and microclimate assessment. While this is the case, I note that an internal lounge is located directly off the external space, with a southeast facing wall of double doors proposed onto the terrace. I consider the two areas combined will provide for a high quality communal amenity area at this level and I have no concerns in this regard.

11.4.14. I consider that, subject to conditions, the quantum and quality of open space would be acceptable and of a high quality. An assessment in consultation with the planning authority of the quantum of open space being provided for on site is required in order to apply a financial contribution in lieu of open space, as per 8.2.8.2(iii) of the development plan.

#### Conclusion – Layout

11.4.15. I am overall satisfied that the general design and layout of the scheme at ground level would provide for a positive public realm, and a highly permeable urban environment. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. The proposal will bring a new population into the area, it will provide for accessible and

connected open spaces, connection to the existing greenway, with links also to Leopardstown Park open space, together with the protection of the existing Protected Structure of St. Joseph's, all of which will be a positive for the local community.

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

- 11.5.1. The height, scale, design, and massing of the proposed development is considered hereunder in terms of the quality of the proposed development, with potential impacts on residential amenities considered separately in section 11.8 and 11.9 of this report.
- 11.5.2. A large numbers of submissions raise concerns regarding the height, scale and massing of the proposed development and consider that the proposal amounts to overdevelopment of the site. They note the level of development differs from that previously permitted on the site. This has also been noted by the planning authority, who recommend refusal of permission for the proposed development on the basis of proposed height, scale and separation distances to the boundaries; as well as overall scale, massing, layout and height having regard to the proposed separation distances between the apartment blocks.
- 11.5.3. The height and massing of the proposed buildings has been addressed in the submitted Masterplanning and Architectural Design Statement. Chapter 12 of the submitted EIAR comprises a Landscape and Visual Impact Assessment and is accompanied by a verified photomontage report, which is discussed in section 13.19 of this report hereunder. In addition, I refer the Board to the submitted specific assessments including the Daylight and Sunlight Assessment Report, the Telecommunications Report and the Wind and Microclimate Study. I have considered all specific assessments submitted (as listed in section 3.3 above and referenced throughout this report), which I consider are sufficient to assess a development of the scale proposed. I have had regard to all submissions made and have viewed the site from various locations. I have addressed the issue of a possible material contravention with regard to height in Section 11.13 below.
- 11.5.4. The policy basis for my assessment of the height, scale and massing of the development is informed by both national and local planning policy. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building

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

11.5.5. As noted previously in this report, five new blocks of development are proposed ranging from three to ten storeys, with the existing protected structure of St. Josephs (two storeys) proposed to be converted for use as nine apartments and a childcare facility. The proposed new blocks rise in height from the edges of the site to the centre, with Block F to the west being 3 and 6 storeys; Block D in the centre of the frontage on Leopardstown Road being 8, 10, and 5 storeys in height; and Block C to the east being 7 and 5 storeys. Along the northern boundary, Block B is also 7 storeys, with a side 4 storey element; and Block A, proximate to St. Joseph's, is 5 storeys (with upper level recessed).

11.5.6. Section 3.1 of the Building Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights (note my response is under each question):

1. Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?

My Opinion: Yes – as noted and explained throughout this report by focussing development of infill low density sites and supporting national strategic objectives to deliver compact growth in urban areas. The planning authority is

also of the opinion that the site is suitable for a higher density of development in accordance with the principles established in the National Planning Framework.

2. Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?

My Opinion: No - the Development Plan which predates the Guidelines contains blanket height limits and therefore has not taken clear account of the requirements set out in the Guidelines.

3. Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

My Opinion: It cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

11.5.7. In addition to the above, I have had particular regard to the development management criteria, as set out in section 3.2 of these Guidelines, in assessing this proposal. This states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments.

11.5.8. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. The subject site is located within reasonable walking distance of high capacity public transport stops, ie within 600m-700m of two Luas stops. There are high frequency bus services within approx. 1km of the site on the N11, with bus services of much lesser frequency immediately adjoining the site on the Leopardstown Road and on Brewery Road. The site is highly connected in terms of walking/cycling facilities. The site is within walking distance of significant employment locations, local shops/services, and amenities. Having considered the Apartment Guidelines and the Sustainable Residential Density Guidelines, I consider the site is ideally located and serviced with options



and links between public transport and more active modes and is at a location which will further build on such sustainable options in the future. Supporting a shift in modes of transport to walking and cycling will ultimately benefit all in the community and the proposed development provides for a high level of connectivity into the surrounding network in this regard. Furthermore the development of these lands would support any proposed public transport improvements by providing for a critical mass of population at this accessible location within the Metropolitan area, in accordance with national policy for consolidated urban growth and higher densities.

11.5.9. Observer submissions have raised concerns around peak time pressures on the Luas and poor bus service adjoining the site. I note anecdotal evidence presented that there are capacity issues at peak hours on the Luas line and the immediately adjoining bus route is not high frequency. I consider peak hour pressures are common and to be expected in urban areas and were this to be the basis of a refusal, no development would take place in our towns and cities. The Luas is an existing high capacity, high frequency, mode of transport proximate to the site capable of accommodating large numbers of people, more than can be accommodated in a private car. This area offers choice of modes of transport for peak hour movements, including luas, bus (particularly high frequency along the N11 route, which is a 16 minute walk from the site), quality network of cycle paths, pedestrian paths, and car. To develop sustainable communities, developments must be designed to enable a shift in modal split from private car to walking/cycling/public transport. I consider the site is ideally located and serviced to build on such sustainable options. The TII has not submitted an objection to this proposal on the basis of lack of public transport capacity nor has it raised this as an issue in terms of prematurity of development pending any further upgrades or increase to services. I am satisfied that the transport network (rail, bus, road, bicycle, and pedestrian) can cater for the increase in population anticipated by this development.

11.5.10. I have considered further the layout of the proposal in the context of the existing urban environment and consider it will make a positive contribution to place-making, incorporating new streets and public spaces within the scheme, and through the development of a scheme of varied scale and form addressing Leopardstown Road, while addressing adjoining areas. This is discussed further hereunder and in section 11.9 (impact on neighbouring properties).

11.5.11. The second criteria relates to assessment of the development at the scale of the district/neighbourhood/street. I note the CE Report recommends a refusal of permission on the basis of Section 3.2 in that at the neighbourhood/street level, the proposed development, ranging in height from two to ten storeys fails to integrate with the two storey housing at Sir Ivor Mall, Minstrel Court and Leopardstown Lawn. It is stated that the proposed development would therefore result in a visually dominant and overbearing form of development when viewed from Leopardstown Road, Sir Ivor Mall, Minstrel Court, the Anne Sullivan Centre and Leopardstown Lawn and would seriously injure the amenities of the area. I have had regard to the character of the existing area and considered whether the proposed development would make a positive contribution to the character and public realm of the area and whether the proposal would sit comfortably with the existing urban environment, the immediate context of which is primarily two storey semi-detached/terraced dwellings and the single storey Anne Sullivan Centre.

11.5.12. I would start by highlighting that this is a large serviceable site within an established urban area, which in planning terms is currently underutilised. While I acknowledge that there is a significant increase in intensity of development with the amalgamation of adjoining sites, I do not consider the amalgamation of sites to represent piecemeal development and I am of the opinion that the site has the capacity to generally absorb the level of development proposed, being of a scale capable of supporting its own character and which can sit alongside the character of the existing area. I do not consider a repetition of the established character and low-density pattern of development in the immediate area would be an appropriate response to the site context or to the requirement for sustainable use of land. The wider area is evolving in terms of densification of development and I do not consider the proposal will appear out of character in this context, particularly when viewed from the Leopardstown Junction. In terms of a mix of typologies as proposed, I consider this would be to the benefit of the existing area providing for increased diversification of housing typology.

11.5.13. I note the site has a 270m frontage onto Leopardstown Road. With regard to the contribution of the site to place-making and delivery of new streets and public spaces, I disagree with the planning authority that the impact of the development on Leopardstown Road would result in a visually dominant and overbearing form. I

consider the proposal will have urban design benefits in how Leopardstown Road is addressed and in the provision of a largely car free internal environment for future residents. The proposed new blocks are positioned facing the Leopardstown Road and at angles to each other and to the street, with varying footprints, heights and materials. The proposal will alter what is a poor street edge bounded by high walls, to an active street edge with high levels of passive surveillance. I refer the Board to CGI02, View 02, View 04, and View 05 of the submitted photomontages. The variety in footprints, height and elevational treatment to Leopardstown Road in addition to the orientation of Blocks A, B and C, introduces variety in the built form which breaks down successfully the massing of the proposal. I therefore do not consider the proposal is monolithic in nature when viewed externally from the site or internally within the site. I note the permeability of the site with pedestrian routes connecting from the Leopardstown Road to the existing greenway and to Silver Pines. Improved permeability and legibility through the site will be a benefit for the wider community and will enhance and support public transport/active modes.

11.5.14. I have considered the visual impact of the proposal in terms of height and proximity to the western and eastern boundaries and I do not share the PA's concerns in relation to the incongruous scale of the development relative to the streetscape at Leopardstown Road (addressed above) and the visual integration of the proposal with the two storey housing at Sir Ivor Mall, Minstrel Court and Leopardstown Lawn, (see PA's recommended refusal no. 3) I refer the Board to photomontages View 05 (Sir Ivor Mall), View 10 (Leopardstown Lawn), View 12 (The Chase/Sheils House estate road), and View 13 (Sir Ivor Mall adjacent to Arkle Square). I have reviewed the development on site from these perspectives and considered the design and separation distances involved. While a view point has not been submitted from the perspective of the Anne Sullivan Centre, I have had regard to the 3D aerial images as submitted in the Architectural Masterplanning and Design Statement, pg 25 and page 26, and also the oblique angle offered of the eight storey section of Block D when viewed from the entrance at Silver Pines in View 14 of the photomontages. I consider I have sufficient information in all the documentation before me to assess the visual impact of the proposed development. In terms of a transition in scale to the neighbouring properties, I consider a transition from the existing 2 storey dwellings at Sir Ivor Mall and Minstrel Court/The Chase to the 3

storey arms of Block F to be visually acceptable, with the stepped increase in height of Block F to 6 storeys acceptable from a visual amenity perspective (I discuss impacts on neighbouring properties in section 11.9 hereunder). With regard to the visual transition of Block C, I note this block faces onto the Leopardstown Road as well as onto the existing greenway to the northeast, on the opposite side of which are the rear boundary walls to dwellings at Leopardstown Lawn. I note a separation distance from the 7 storey element of Block C to dwellings 5 and 6 Leopardstown Lawn is 40m, with a separation distance of 45-49m to the rear of the 5 storey element of Block C to dwellings on the opposite side of the greenway. Given the separation distances involved, the intervening use of the greenway, the orientation of the blocks and the staggering in height from 5 to 7 storeys along both Leopardstown Road and the greenway, I do not consider Block C will be visually incongruous. I consider the scale and mass of the building is sufficiently detailed to allow the proposed block site comfortably within the site. I have further considered the visual impact of Block D on Leopardstown Road previously in this report, which I consider acceptable. While the provision of a higher focal element of 10 storeys in Block D surrounded by blocks of a lower height is considered acceptable in principle at this location, I do have concerns in relation to the 10 storey element in terms of its impact on sunlight-daylight of open space and dominance over the open space between blocks A and B, which is discussed further under section 11.8 hereunder.

11.5.15. Overall, while the development in its entirety will be visible, I do not consider this a negative given the separation distances, variation in height, articulation of the facades, and block orientation as proposed. I consider further the impact on residential amenities in section 11.9 hereunder, however, having regard here to the impact in terms of visual amenities, I consider the development as proposed is acceptable and would be a positive addition to the evolving urban fabric of the area and is at an appropriate density, in support of national policy.

11.5.16. The proposal, in terms of the proposed renovation and reuse of the protected structure, has had sufficient regard to its cultural and architectural heritage and the protection of its setting and character in the design and location of the new apartment blocks and has also had due regard to the setting and character of the amenity of immediately neighbouring residential properties. I note the CE Report has

raised no concerns in relation to the impact of the development on the protected structure.

11.5.17. I note concerns raised in the CE Report and in submissions around the impact that taller buildings on the subject site would have on identity and legibility of Sandyford and Central Park as designated centres for future growth. The CE Report considers that the development should be of reduced scale to protect the primacy of Sandyford District. I do not consider that the growth of Sandyford and Central Park should be viewed as the sole place where height can be exhibited in this area. If buildings of an appropriate urban scale are being proposed on the subject site, I see no reason why this would be to the detriment of Sandyford and Central Park, which in itself is being developed under a framework plan for a larger block of land at that location.

11.5.18. The CE Report recommends that in terms of height, should the Board be minded to grant permission, Block F should be omitted in its entirety; the fourth, sixth, seventh and ninth floors in block D should be omitted so that the maximum height is 6 no. storeys; the first floor in block C should be omitted so that the maximum height is 6 no. storeys; and the first floor in block B should be omitted so that the maximum permitted height should be 6 no. storeys. Further to my assessment above, I do not consider the implementation of a blanket maximum height of six storeys is warranted and the range of heights as proposed is in my opinion acceptable (submit to condition in relation to the upper two floors of Block D as discussed in the open space and sunlight daylight sections).

11.5.19. I am satisfied that the development is reflective of good contemporary architecture and provides a high-quality design approach, in accordance with section 3.2 of the Building Height Guidelines and adequately addresses the issues of proximity to high quality public transport connectivity; contribution to the character and public realm of the area, to place-making, to the urban streetscape, to legibility and to the mix of unit typology in the area. Overall, I am satisfied that the proposed development is in compliance with section 3.2 of the Building Height Guidelines.

11.5.20. In terms of local policy, Appendix 9 of the DLR CDP comprises a Building Height Strategy (BHS). Section 4.8 of Appendix 9 relates to 'Residual Suburban Areas not within the Cumulative Areas of Control', as is the case with this site, and

states ‘...apartment or town house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate location’. The BHS acknowledges that there are instances where upward or downward modifiers may be applied by up to two floors (see section 4.8.1 and 4.8.2 of Appendix 9 of CDP). I consider that the development materially contravenes the Building Height Strategy and related Policy UD6 with regard to Blocks B, C and D, being greater than two storeys above the heights limit of 4 storeys. I consider upward modifiers apply, as per the Building Height Strategy, in that the location of the site is proximate to the Luas line, and the site is greater than 0.5 hectares in area, therefore ‘could set its own context away from boundaries with existing residential development’. I would highlight to the Board that these considerations applied to the site under a previous permission, where Blocks A and B (then 5 storeys) were proposed in the same location and St. Josephs was to be converted. While the CE Report applies downward modifiers given the proximity to boundaries and impact on existing dwellings of Block F and Blocks B and C, I consider adequate separation distances are proposed and the visual impact will be mitigated by the design and staggered heights, as discussed above.

11.5.21. With regards the issue of Material Contravention and Building Height, I note national policy guidance which encourages against blanket restrictions on such matters as separation distances. I am of the opinion that if the Board considers that the proposal represents a material contravention of the operative County Development, it is open to them to grant permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of application and national policy guidance in this regard, specifically SPPR3 of the Building Height Guidelines.

## 11.6. **Landscape, Visual Impact**

11.6.1. The relevant section of the EIAR is Chapter 12 ‘Landscape and Visual Impact Assessment’ (LVIA), with photomontages accompanying this section. I refer to section 13.19 of my report hereunder for further details in relation to the LVIA, and also section 11.9 for assessment in relation to impact of the development on neighbouring properties.

11.6.2. I note the following in particular in relation to the LVIA:

- Leopardstown Road is three lanes wide with cycle lanes and footpaths on both sides and a green verge. I concur with the submitted LVIA that given the width of the road, there is no excessive sense of enclosure from the height of buildings proposed and the steps in height, variations in façade treatment and materials and the high degree of articulation of the facades add visual interest, which is considered a significant positive impact (see View 2 of Verified Photomontages Report). A key change to the view would be the removal of the boundary wall to Leopardstown Road, so that the buildings address the street from behind a wide green verge with street trees and create an urban edge, which is considered a significant positive.
- With regard to the transition from the two storey dwelling in Sir Ivor Mall at the Leopardstown Road boundary and the impact/transition with proposed Block F at three-six storeys, while there will be an obvious transition in typology and scale at this location, the LVIA considers that it is appropriate that a building of urban typology and scale be positioned in this corner of the site and that such a juxtaposition in typology, scale and architecture is not unusual, nor undesirable. Overall the visual amenity of the road corridor would be improved, and it is stated there would be a significant positive effect. I agree with the LVIA in this regard. I have had regard to submissions made and have viewed the site from various locations. I am satisfied that Block F can be accommodated at the scale proposed without detrimental impact on the visual and residential amenities of the area and will provide for an improved urban form at this location (I refer the Board also to section 11.9 of this report hereunder).
- With regard to the Anne Sullivan Centre and numbers 22-25 Silver Pines, while the LVIA does not include a photomontage from this perspective, I note that 3D aerials have been submitted and I have sufficient information before me to consider the visual impact. The Anne Sullivan Centre comprises single storey buildings (with three dwellings within the cul-de-sac in Silver Pines also used by the centre, but unconnected physically to the centre). Properties 22-25 are also located to the west/northwest of Block D, which is 8-10 storeys high. Given the low scale of the Anne Sullivan Centre and the dwellings at 22-25, the proposal will undoubtedly be visible. However, I note the separation distances from Block D to the boundary and between the buildings themselves which ranges from 41m from the two storey

dwellings and 35m at its closest point to the nearest building in the Anne Sullivan Centre; the proposed landscaping plan provides for open space and retention of trees directly adjoining this boundary; and the design of Block D is angled in the centre and is set back at the eighth storey level with the ten storey centre located toward the edge of the Anne Sullivan Centre site. I consider the proposal will not have a significant negative impact on the visual amenities of the area given the separation distances involved and the design and positioning of the block.

11.6.3. While the proposal will alter the skyline in the immediate area of the site with the introduction of new heights and built form, I do not consider this to be a negative, given the quality of the scheme put forward, with buildings addressing streets and spaces, as well as open space. While the proposal will be visible from adjoining residential areas, I am generally satisfied that the height, density, scale and massing of the proposal is appropriate and consider that appropriate transitions in scale have been put forward in the design having regard to the context of neighbouring residential dwellings. The more urban development of this site, while being a departure from what exists, is not entirely unexpected based on the zoning of the site, council policy in relation to densification and based on what has been permitted and constructed in the wider area, and also having regard to previously permitted densification of a portion of this site. I consider overall that the proposed development when complete will read as an intensification of the existing urban context, as is occurring in the wider area, and which is supported by national and local policy, and the visual impact will primarily be a positive impact.

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

11.7.1. An ecological impact assessment has been undertaken as part of Chapter 6 of the submitted EIAR. I refer the Board to section 13.8 of this report hereunder. An Arboricultural Report has been submitted, with supporting drawings of Tree Constraints Plan, Tree Impacts Plan, and Tree Protection Plan. A Landscape Plan has also been submitted, with supporting Landscape Masterplan drawing.

11.7.2. A number of observer submissions raise concerns in relation to loss of trees and biodiversity, in particular concern regarding the number of trees to be removed and reality of retention of specified trees given construction works. Similar concerns are raised in the Parks Department Report from DLR accompanying the CE Report. I



note under the previous permission on this site (ABP 249248) the matter of tree retention was addressed at an oral hearing and in the inspector's report in relation to the area around St. Josephs and along the greenway boundary. Some submissions raise concerns that the site has already been cleared of some trees. The submitted Arboricultural Report states in this regard that minor and localised tree clearance works have taken place, which are works for tree removal permitted under Reg Ref D17A/0337 and ABP Ref. PL06D.249248.

- 11.7.3. Map 6 of the CDP shows a tree symbol sited centrally along the north-eastern boundary of the site, the objective of which is "To protect and preserve trees and woodlands". The development plan under Policy OSR 7 and Section 8.2.8.6 addresses trees. This Policy states that "Trees...which form a significant feature in the landscape or are important in setting the character or ecology of an area should be preserved wherever possible" and this section cites BS 5837 (2012) as the relevant standard for handling trees on development sites. There are no tree protection orders on the site.
- 11.7.4. As per Arboricultural Report the overall area comprises 277 trees, of which there are no good quality category "A" trees; 110 no. fair quality category "B" trees; 146 no. poor quality category "C" trees; and 21 no. unsustainable category "U" trees. A total of 142 trees (51%) are to be removed, of which 55 are "B" trees, 66 are "C" trees and 21 are "U" trees. There will also be removal of numerous shrubs and hedges associated with the gardens of houses to be demolished. The landscape plan proposes the planting of 200 trees. It is stated in the Arboricultural Report that to retain the A, B and C trees along would require 38% of the site to be maintained free from development. In terms of the approach taken, it is stated that the potential for tree retention while developing the site is limited, however, the design intention is to maximise tree retention whether that be in the long term, or in respect of interim cover as trees will continue to contribute to the continuity of tree cover on the site during the early years when the substantial landscape planting becomes established. I consider this a reasonable approach and acknowledge there is a balance required between achieving the sustainable development of this zoned serviced site within the metropolitan area and the requirement to protect existing significant trees and the amenity value of the site, particularly at the boundaries and proximate to St.

Josephs. I consider a managed approach to the trees and their medium term replacement a positive element of the landscape plan as proposed.

- 11.7.5. The area around St Joseph's House is notable in that it is dominated by a population of large, mature Austrian Pines, together with tree belts along its northern and eastern boundaries. It would appear that the pines were planted contemporaneously with the opening of St. Joseph's House as a convalescent home in the 1860s. The proposals intend to retain as many of these trees as possible. Where this cannot be achieved, then replacement planting will occur. It is further noted that the majority of the Austrian Pines are in good to fair condition, however some specimens are showing signs of deterioration in vigour and vitality and others show evidence of storm damage. Such health and mechanical deterioration issues are considered to be typical for the age profile and it is stated they should be considered with caution regarding longer-term sustainability. Concerns are also raised in relation to trees 355 to 366 given their age and overall sustainability as a group. It is stated that the remainder of the sites north-eastern boundary comprises a mix of trees of substantially smaller stature in comparison to the Austrian Pines, which are of more variable condition, with many trees having suffered as result of their proximity to one another.
- 11.7.6. With regard to the western boundary, just south of the entrance from Silver Pines, the proposed attenuation tanks will encroach on some of the Pines in this area. It is acknowledged that while this area has previously been used for car parking and appears compacted, the proximity and scale of the new dig will see excavation encroachment on the nearby trees and has resulted in the loss of some. It is proposed to further review impacts at excavation time to better understand any possible implications to, and sustainability of, the retained trees, and to assess the need for mitigating measures and additional tree works.
- 11.7.7. The submitted Tree Impacts Plan highlights the area of trees to be retained to the northwest and along the northern boundary of the site, a group of 11 trees at the northeast corner of the site at the entrance to the greenway and a copse of 6 trees to the front of Block D along Leopardstown Road, located at the triangular set back of the building between the eight storey block and five storey block.

11.7.8. The Arboricultural Report further addresses a number of concerns that have been raised by DLR, as follows:

- Collateral impacts to trees, particularly relating to hydrological impacts: A hydrological investigation identified a broadly impermeable granite bedrock, overlaid with a weathered layer through which much of the perceived ground water movement occurred. While much of the water used by trees on the site is expected to relate to rainfall, the project engineers have utilised the hydrological information and incorporated a soakaway system beneath the primary structures, that allows continued passage of groundwater from west to east across the site. This is considered a positive contribution to the site's broader hydrological scenario and will assist in the attainment of a post development groundwater equilibrium that will be of benefit to the site's trees.
- Effects of various construction works and amendments to soil bearing ratios near trees: The development proposals and particularly the proposed landscape scheme does include some landscape features within tree protection areas. Such areas have been highlighted on the "Tree Protection Plan" and will include only delicate, no-dig solutions that avoid potential impacts. Such works will be undertaken in line with an Arboricultural Method Statement that will control access and procedures within the tree protection areas. Additionally, there are plans to incorporate construction and excavation methodologies including limited dig exercises, where retained excavation digs avoid the use of battered or benched digs, as well as the adoption of services routes that are sometimes slung within basement structures, thereby avoiding the need for additional trenching. I note the zone to the front of St. Joseph's has been designated as a "controlled works" area, where works and particularly excavations will be monitored and limited where possible to minimise encroachment on potentially root bearing soils.

11.7.9. While I note the level of tree loss, conflicts such as these are inevitable as land is developed and I note the majority of trees being removed are former garden trees associated with the houses to be demolished. I consider the landscaping measures will mitigate the impact of this loss. Conditions are recommended in the submission of the Department of Housing Local Government and Heritage in relation to timing of tree/vegetation removal and the provision of bat and bird boxes, as proposed in the submitted EIAR. A "Preliminary Arboricultural Method Statement" and "Tree

Protection Plan” have been submitted, the implementation of which will be important in the success of the retention of trees. I am generally satisfied with the methodology and mitigation measures proposed. Should the Board be minded to grant permission, a condition in relation to trees is recommended in light of the sensitivity of the site.

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

### Design Standards for New Apartments

- 11.8.1. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply. Schedules have been submitted to demonstrate compliance with the standards.
- 11.8.2. The apartments have been designed to comply with the floor areas as per SPPR3 and appendix 1.
- 11.8.3. SPPR4 relates to dual aspect ratios. The HQA states 232 apartments of the total 463 apartments are dual aspect, which equates to 50%. This is acceptable. I note that there are stated to be 4 north facing single aspect units in Block B, 15 in Block C, and 13 in Block D, which is a total of 32 of the 463 units proposed. The applicant argues this is acceptable given the layout of the scheme and views of open space internal to the scheme as well as to Leopardstown Park. Given the limited number of units this affects, and given the urban design rationale submitted, I accept the layout as proposed.
- 11.8.4. 54% of the apartment units exceed by 10% or more the minimum floor areas.
- 11.8.5. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. The submitted HQA states the ceiling height at ground floor level for blocks A to C is 2.65m and for Block D is a mix of 2.65m and 2.95m for studio apartments, which when rounded up is 2.7m. As per SPPR 5, the ground level floor to ceiling height is required to be a minimum of 2.7m. Should the Board consider it warranted, they may wish to include a condition that all floor to ceiling heights are 2.7m. I note the overall height increase of 0.05m is miniscule in terms of noticeable visual impacts externally.
- 11.8.6. SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is complied with.

11.8.7. A Building Lifecycle Report has been submitted, as required under section 6.13 of the Apartment Guidelines.

11.8.8. Car parking provision is considered acceptable and in accordance with guidelines (this is addressed in detail in Section 11.11 hereunder).

#### Studio Units

11.8.9. 85 studio units are proposed. As per the plans submitted these are located in Blocks C, D and F, and all studio units, as per the HQA, meet the minimum floor area requirements of 37sqm. Studio units are smaller in floor area than one bed units (45sqm in area) and differ also in that they comprise an open plan living/sleeping arrangement. Studio units are described in the apartment guidelines as 'a small unit with a combined living/sleeping area, generally provided for a single person'. All of the proposed studio apartments in Blocks C and D are designed with a sliding door separating the bedroom area from the living/kitchen area, creating a situation whereby an internal bedroom with no window results when the sliding screen is closed. While I note that the aim may be to create a degree of privacy to the bedroom areas, I consider a full height partition screen would result in substandard amenity and access to light for occupants with poor ventilation across the apartment. To this end I recommend to the Board that a condition should attach in relation to these units to omit the full height partition between the bedroom and living room of these units. I consider a solution such as a partial or mid height partition would achieve the same effect of a level of privacy without blocking all light and limiting opportunities for ventilation within these single aspect units.

11.8.10. I note that the studio units in Block F all have a window to the bedroom as well as a sliding partition, which raises the question as to whether these should be considered as one bed units, in which case the units would not meet the minimum requirement in terms of floor area of 45sqm, as they range in area being 37.6sqm/37.8sqm/40sqm. Having reviewed the floor plans for Block F, I am of the view that the proposed units given their design and layout should be classified as one bed units if applying the Apartment Guidelines. As one bed units the floor areas are substandard as they do not meet the minimum required floor area of 45sqm. To resolve this issue, I suggest to the Board that it would be possible to condition out the partition to the bedroom units and revise the internal layout so that the proposed

units accord with the classification and design of a studio unit as per the Apartment Guidelines, whereby a studio unit comprises a combined living/sleeping area with overall minimum floor area of 37sqm. Alternatively, the applicant could redesign Block F to ensure all studio units are increased in size to 45sqm and designed as a one bed unit in accordance with the standards as set out in the Apartment Guidelines. To achieve the latter option, the Board could omit Block F in its entirety and this area could be subject to a future application with the area retained as open space in the interim. As the applicant has applied for studio units, I consider a condition in relation to the internal layout of the units would be appropriate in this instance.

#### Communal Open Space

- 11.8.11. Section 4.10 of the Apartment Guidelines refers to the requirement for communal amenity space. Based on the number and size of units proposed, the development generates a requirement for 2778sqm of communal open space. This requirement is met with 3205sqm communal open space proposed. However, I note issues in relation to the level of sunlight available in the open space area between Blocks A and B, and between Blocks B and C. This is discussed further in the subsection hereunder on 'Sunlight in Proposed Outdoor Amenity Areas'.

#### Separation Distances

- 11.8.12. It is stated in the CE Report under recommended refusal reason no. 2 that '...Having regard to the proposed separation distances between the apartment blocks, the proposed development if permitted, would result in overlooking of habitable rooms and create a substandard level of residential amenity for future occupants of the proposed residential scheme and would be contrary to the Dún Laoghaire Rathdown County Development Plan 2016-2022 ...'. It is highlighted in the report that it is not considered that the proposal responds to the site, in that 'Minimum separation distances of 15.1m are noted between blocks B and C which will impact the residential amenities of future residents by way of overlooking and overbearing', and '...the courtyard between blocks B and C will likely receive less sunlight than the BRE Guide recommendations'.

- 11.8.13. Section 8.2.3.3(iv) of the operative County Development Plan states 'All proposals for residential development, particularly apartment developments and

those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable’.

11.8.14. I have reviewed the blocks design and orientation. With the omission of the four storey section of Block B, which I consider necessary to improve the usability of the open space between these blocks, I note the separation distances between the units in Block B and Block C will be increased from the proposed 15.1m to 25m. I consider the increased separation distances will result in an improvement to the residential amenities of future occupants and would be in compliance with the development plan. I note where Block C is angled the separation distances reduce to 17m, however, given the intervening access to the basement and the benefit to the site layout of this orientation, I consider that this design is acceptable, particularly given the minimal number of units that this affects. I highlight to the Board that the development plan allows for a reduction in separation distance in certain instances, ‘depending on orientation and location in built-up areas’.

11.8.15. I note the separation distances between Block A and B of 24.7m and I consider this to be acceptable. The distance between Block D and Block F is 15m, however, I note the positioning of these blocks relative to each other with no direct overlooking between habitable rooms. I further note the sunlight-daylight assessment submitted meets BRE guidance in relation to the living and bedroom spaces within the blocks.

#### Block F and Adjoining Footpath

11.8.16. As per the site layout plan, the frame of Block F, which encloses the ground floor terraces and balconies, encroaches on the adjoining public footpath. In the interests of maintaining a consistent public realm along Leopardstown Road, I consider this issue should be addressed by way of condition. The depth of the proposed terrace/balconies to the apartments is 2.05m. The depth of the balconies

could be amended (minimum depth required under Apartment Guidelines is 1.5m) and the balconies extended in length to achieve this set back.

#### Private Open Space

- 11.8.17. All units are provided with private open space as per the Apartment Guidelines, with the exception of some of the apartments in St. Josephs. The lack of private open space provision to these units is justified on the basis that this would involve significant interventions to the Protected Structure and its setting. I accept the absence of private open space within St. Joseph's due to the historic nature of the structure. Effectively this is being done in the interests of architectural heritage protection.

#### Leopardstown Road Entrance and Location of ESB Substation and Waste Collection Area

- 11.8.18. I note the location of the ESB kiosk adjoining the vehicular entrance to the scheme on Leopardstown Road. Adjoining the ESB substation is a 62sqm area bounded by a 3.1m stone wall to the east which appears to reduce in height along the western edge (see CGI no. 1 and View no. 3 in submitted 'Verified Photomontages' and plan labelled Bin Stores, Bike Stores and ESB Drawings). I consider the positioning of the kiosk detracts from the entrance to the scheme, creating an obstacle and reducing pedestrian space given it adjoins a temporary waste collection area bounded by walls. I note the wall at the western end of Block C is 3m high and would impact light and the outlook of the two ground floor units at this location. Should the Board be minded to grant permission, I consider a condition would be warranted to re-examine the location of the ESB kiosk and waste collection area. Further consideration in relation to the potential impact on traffic of locating the waste collection area at this point should also be considered.

#### Access and Block F

- 11.8.19. With regard to apartment Block F, a stair and lift core is located within the six storey element of the building with a separate external block comprising a stairwell providing access from the northeast of the internal courtyard. The stairwell provides access to an external corridor at the second and third floor level of the three storey blocks, with these corridors also connected to the stair/lift core in the six storey block. The external stairwell block appears to comprise no windows with no access



to natural daylight. This would provide for an extremely poor access route to the apartments with potential for anti-social behaviour. Windows should be added in the interests of access to daylight and visibility for users, which could be addressed by way of condition should the Board be minded to grant permission.

Unit Mix

11.8.20. The unit mix is as follows:

Table Unit Mix

	<b>Studio</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>Total</b>
<b>Apartments</b>	85	117	248	13	463
<b>As % of total</b>	18%	25%	54%	3%	100%

11.8.21. The DLR CE Report considers that the proposed number of 3-bedroom units at 2.8% does not deliver on the requirements of Policy RES7. It is considered that the provision of 85 no. studio apartments which constitutes 18% of the mix is excessive considering their limited size ranging between 37-40.5sqm. It is considered that a scheme of this scale, should deliver a mix of units capable of catering for all profiles of residents, including families with children.

11.8.22. DLRCDP policy RES7, seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy. I note that section 8.2.3.3 (iii) does not state that larger schemes over 30 units ‘shall comprise’ but instead states ‘should generally comprise’ and I consider that this allows for a degree of flexibility regarding the proposed housing mix. I therefore do not consider that the development materially contravenes the development plan in this regard, noting also the provisions of RES7. This matter is considered further in relation to Material Contravention in section 11.13 of this report.

11.8.23. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population

growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The Apartment Guidelines state under SPPR 1 that 'Housing developments may include up to 50% one-bedroom or studio type units ... and there shall be no minimum requirement for apartments with three or more bedrooms...'. I have further considered SPPR4, subsection 2 and 3, of the Building Height Guidelines which support a greater mix of building heights and typologies in planning for the future development of suburban locations and avoidance of mono-type building typologies.

- 11.8.24. The proposal in my opinion serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community, which has traditionally been served by standard two storey housing and is in line with the overarching national aims to increase housing stock, including in the apartment sector, as set out in various policy documents, including, but not limited to, Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

#### Sunlight Daylight

- 11.8.25. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solutions. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020

also state that planning authorities should have regard to these BRE or BS standards.

- 11.8.26. The applicant has submitted a document 'Assessment of Sunlight and Daylight Access within the Proposed Development' which outlines the guidelines and standards used and the methodology applied. I note that an assessment of the sunlight-daylight impact of the development on neighbouring properties is addressed separately within Chapter 18 of the EIAR and in section 11.9 of this report.
- 11.8.27. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the BRE Report "Site Layout Planning for Daylight and Sunlight"; and British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK), however, this updated guidance does not have a material bearing on the outcome of the assessment and the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.
- 11.8.28. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state that although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards therefore described in the guidelines are one of a number of matters to be considered in a balanced and holistic approach to the assessment of the site context and building design.
- 11.8.29. I assess hereunder the impact on daylight in relation to the internal layout of the scheme and the units. I have assessed potential impacts on neighbouring properties separately and I refer the Board to section 11.9 of this report hereunder, as well as section 13.18.

Daylight - Internal to the Proposed Buildings

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

11.8.31. The submitted report sets out the methodology in terms of the rooms selected for assessment. I consider the approach as set out to be robust and in accordance with best practice. For combined kitchen/living/dining rooms a 2% ADF value is applied, 1.5% for living rooms and 1% for bedrooms. I note from the floor plans some apartments have combined kitchen/living/dining areas and others have galley type kitchens (no windows) separate from the living/dining rooms. In relation to Block A, seven spaces were assessed on the ground and first floor level, of which all met and exceeded the 2% target for living areas. In relation to Block B, eleven spaces were assessed at ground and first floor level, all of which met and exceeded the 2% target for living spaces and 1% for bedroom spaces. In relation to Block C and Block D, twelve spaces were assessed in each block and all rooms met and exceeded the standards in the BRE guide. In St. Josephs, seven rooms were assessed, and all are indicated to be in compliance with the BRE guidance. This is also the case for Block F, where eight rooms were assessed. It is stated that design mitigation measures have been incorporated into the design throughout the design process, including consideration of increased window sizes, reconfiguration of balcony arrangements and inclusion of additional windows.

#### Sunlight in Proposed Outdoor Amenity Areas

11.8.32. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least

half of a garden or amenity area should receive at least two hours of sunlight on 21st March, in order to appear adequately sunlit throughout the year.

11.8.33. Section 3 of the applicant's Sunlight and Daylight Report assesses sunlight within the proposed open space, with diagram 3.1 labelling and indicating the open spaces referenced in the report. The types of open spaces assessed are labelled communal open spaces, public open spaces, three smaller open spaces referred to as 'visual amenity spaces', and the creche open spaces. In relation to communal spaces, there are eight identified, of which seven meet the BRE standards of 50% of the individual spaces achieving sunlight over two hours of the day on 21<sup>st</sup> March. The space which falls short of the BRE standard is located between Blocks A and B, labelled number 05 on figure 3.1 of the submitted report. This space is the largest communal open space proposed and comprises a play area and landscaped courtyard area. The visual amenity area located between Blocks B and C (labelled area 6 in figure 3.1) also falls short of the BRE guidance. I note this space is half the size of that between Blocks A and B given the entrance to the basement car park forms part of the space and given the wider footprint of a section of Block B.

11.8.34. The CE Report from Dún Laoghaire Rathdown County Council highlights that both areas 5 and 6 will receive sunlight below the BRE recommendations. While it is noted that the applicant states that should the area of communal open space 5 be excluded from the open space calculation, the development will still provide 8,908 sqm, which is in excess of the open space requirement, the Council considers that regardless of whether visual amenity space 6 or communal open space no.5 is included in the open space calculation, a separation distance is required between Blocks A and B and Blocks B and C in order to provide relief between the scale of the development proposed rising from 5 to 7 storeys. The Planning Authority therefore consider that the failure of communal open space 5 and visual amenity space 6 to meet the BRE guidelines is a reflection of the over development of the site resulting from excessive height and limited separation distances between blocks.

11.8.35. I am of the opinion that the spaces between Blocks A and B, and Blocks B and C should be of sufficient quality in terms of access to sunlight to be of benefit to the future residents. I consider the scale of the space between Blocks A and B, which is the largest and most functional open space proposed in the scheme, is acceptable, however, I have concerns in relation to the level of sunlight and

compliance with BRE guidance. To this end, should the Board be minded to grant permission, I consider the level of sunlight achievable would be greatly improved with the omission of the two upper levels of Block D, ie the ninth and tenth floor on the corner of that block, which is to the southsouthwest of the open space. I further consider the space between Blocks B and C substandard in terms of its scale, with the separation distances between Block B and C also substandard. I consider the omission of the four storey section to the side of Block B would significantly improve the quality and functionality of this open space, which would be of benefit to the residents of the apartments on either site (115 apartments in Block C and 88 apartments in Block B), as well as other residents.

11.8.36. In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am satisfied that the design and layout of the development has been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, subject to condition in relation to Block D and Block B, are in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants, as per the Building Height and Apartment Guidelines.

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

11.9.1. A number of observer submissions raise concerns in relation to impacts on existing properties bounding and proximate to the site for reasons relating to overbearance, loss of privacy, overlooking, overshadowing and loss of residential amenity. The CE Report from DLRCC recommends refusal of the proposed development based on similar concerns, stating 'Having regard to the proposed height, scale and separation distances to the boundaries, it is considered that the proposed development would appear visually obtrusive and overbearing when viewed from the properties at Sir Ivor Mall, Minstrel Court, Silver Pines and the Anne Sullivan Centre. Furthermore, the proposed development would negatively impact the sunlight and daylight of properties at Sir Ivor Mall, Minstrel Court, Silver Pines, Leopardstown Lawn, the Anne Sullivan Centre and the Laura Lynn Childrens Hospice to an unacceptable extent. The proposed development would significantly detract from existing residential amenity and would depreciate the value of these properties, materially contravening

the zoning objective A, which seeks ‘to protect and or improve residential amenity’ as set out in the Dún Laoghaire Rathdown County Development Plan 2016-2022’.

11.9.2. In addressing the issues raised, I examine hereunder the impacts of the development on the sunlight-daylight of neighbouring properties and then the impact of each block in terms of overlooking, overbearance and overall impact on residential amenity.

#### Daylight – Vertical Sky Component (VSC)

11.9.3. Chapter 18 of the submitted EIAR address impact in terms of sunlight-daylight on neighbouring properties (I refer the Board to section 13.18 of this report). In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms.

11.9.4. Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are as noted in the BRE Guidelines:

- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if ‘no’ test 2 required)
- ii. Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if ‘yes’ test 3 required)
- iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if ‘yes’ test 4 required)
- iv. Is the VSC less than 0.8 the value of before ? (ie. if ‘yes’ test 5 required)
- v. In room, is area of working plan which can see the sky less than 0.8 the value of before? (ie. if ‘yes’ daylighting is likely to be significantly affected)

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

- 11.9.6. The neighbouring properties that were assessed in the submitted Daylight and Sunlight Report for a potential impact on their Vertical Sky Component are located in at The Chase (including Sir Ivor Mall and Minstrel Court), Silver Pines (including the Anne Sullivan Centre), Leopardstown Lawns and Leopardstown Avenue. Impacts on the Laura Lynn and Childrens Sunshine Hospice are also assessed.
- 11.9.7. In relation to the properties in Sir Ivor Mall (labelled zone 1 to 8), the impact on no. 6 Ivor Mall is within the BRE guidance in that VSC is above the 27% at 27.8% and the impact is not below 0.8 times its former value. With regard to 5 and 4 Sir Ivor Mall the VSC is 24.4% and 25.5% respectively, which is below the recommended 27% and the impacts are 0.73 and 0.79 respectively, which is below the recommended 0.8 times the former value. Given the level of impact is marginally outside the recommended values, the impacts are rated as slight in extent. No.s 3 and 2 Sir Ivor Mall falls within the 27% VSC and 0.8 the former value, which is in compliance with the recommended standards. While no. 1 Sir Ivor Mall has a VSC of 24.4%, it does not fall 0.8 times below its former value, being 0.92, which is considered imperceptible. Given the marginal nature of the reduction against standards, I consider the proposal acceptable having regard to the overall benefits of developing the site, providing for additional housing, improving the public realm at this location and maximising upon existing investment in public transport and cycle infrastructure at this location.
- 11.9.8. In relation to Minstrel Court which is to the west of proposed Block F, dwellings 1-8 were analysed. While no.s 1-3 fall below a 27% VSC this is because they are already below 27% without the development, however, in both cases the value does not fall below 0.8 of the former value, therefore they both meet BRE guidance, with the values rated imperceptible to not significant and imperceptible to slight. Dwelling no.s 4-8 have similar impacts, with the existing VSC for these dwellings at 27%, therefore with the proposed development in place these fall below 27% with values ranging from 20.4-20.7% and the change in terms of the former value is 0.76 for dwelling no.s 4-7 and 0.81 for dwelling no. 8, with the effect rated for dwelling no.4-7 as slight and imperceptible to slight for no. 8. I note the instances where the value falls below 0.8 is low, with the percentage reduction still over 70%.
- 11.9.9. In relation to the two sets of semi-detached dwellings in Silver Pines, no.22-25, the VSC values decreases for these dwellings from c. 33.3-34% and falls to below 27%



for dwellings no.s 23-25, being 22.9%/22.4%/24.5%/28.9%, with the change ranging from 0.72/0.73/0.72/0.69 the former value, with these effects rated as slight for dwellings 22-24 and slight-moderate for no. 25. While there will be an impact, I consider the range by which the effects fall below 0.8 to be marginal and therefore do not consider the proposal will result in significant negative impacts on the residential amenity of the area, however, I have considered this issue in combination with the overshadowing of the private amenity space of these gardens from Block F further in section 11.9.21 and recommend amendments to Block F as a result.

11.9.10. With regard to the Anne Sullivan Centre, the fall in VSC is from 35.9% to 28.9% and 0.81 below its former value, which is in accordance with BRE guidance, with the effect being imperceptible to not significant. I therefore consider the impact in this instance acceptable.

11.9.11. The eleven dwellings assessed in Leopardstown Lawn are assessed in terms of their VSC value. Eight out of eleven dwellings have a VSC value post development of below 27%, however, this is as a result of the low base VSC to begin which is currently below 27%. In terms of % range of reduction, 6 of the 11 dwellings have value ranges which fall below 0.8 (values ranging from 0.76/0.77/0.78/0.79) and the remaining 5 being greater than 0.8 (ranging from 0.82/0.85/0.92/0.93). I consider the effects are not overall significant given the marginal degree to which they fall below the 80% of the former value and therefore I consider the impact on Leopardstown Lawn to be acceptable and will not result in a significant negative impact on residential amenity. I have also considered the impacts against the wider benefits of developing the site, providing for additional activity and passive surveillance along the existing pedestrian/cyclist greenway at this location, with the development overall maximising upon existing investment in public transport and cycle infrastructure at this location, and consider the overall impact acceptable in this regard.

11.9.12. Due to the extent of intervening distance, the construction of the proposed development has the potential to result in little or no change in daylight access within residences to the south of Leopardstown Road or to the Children's Sunshine Home (building furthest west on the Laura Lynn Campus). 9 points are assessed on the 2 storey north facing façade of the Laura Lynn House, which is the building closest to the road on the campus, and 1 point on the building furthest from the site to the

southwest. 3 of the 9 points falls below the 27% VSC value, with 7 points falling below 0.8 of the value, but all remaining above 0.7. The impact of the effect on the existing building at the LauraLynn House Children's Hospice is stated to range from none to "imperceptible" to "significant". Having regard to the particular sensitivity of hospice use, ARC assessed any impact where Vertical Sky Component is reduced to less than 0.8 times its former value as potentially adverse (even in circumstances where Vertical Sky Component remains above 27%). This goes further than the BRE Guide which suggests that an impact on daylight access may fall within adverse ranges when VSC falls to less than 27% and when the VSC falls to less than 0.8 times its former value. While I note an extra sensitivity was applied to the Laura Lynn Hospice, the overall impact is such that the daylight achieved remains between 70% and 80% of the former value on this northfacing façade. I do not consider the impacts arising to be significant.

#### Sunlight Access Impacts

11.9.13. Annual Probable Sunlight Hours (APSH) is a measure of sunlight that a given window may expect to receive over the period of a year. The percentage of APSH that windows in existing properties receive might be affected by a proposed development. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. A proposed development could possibly have a noticeable effect on the sunlight received by an existing window, if the following occurs:

- The APSH value drops below the annual (25%) or winter (5%) guidelines; and
- The APSH value is less than 0.8 times the baseline value; and
- There is a reduction of more than 4% to the annual APSH.

11.9.14. As highlighted in the submitted assessment, during the mornings and early afternoons of the spring, summer and autumn months, shadows cast by the proposed development will extend west and north to Sir Ivor Mall and Minstrel Court, to Silver Pines and to the Anne Sullivan Centre, resulting in an "imperceptible" to "moderate" impact in sunlight access to a small number of rooms facing towards the application site and rear gardens bounding the application site, with the rear gardens of Nos. 24 and 25 Silver Pines likely to experience potentially "moderate" to "significant" additional overshadowing for a considerable part of the day during the

spring and autumn months. I have considered further this impact against the shadow diagrams submitted, and given the positioning of Block F to the south of nos.24-25, and the positioning and distance of 5.7m from Block F to the rear garden boundary with no. 25 Silver Pines, I consider a reduction in the proximity of Block F at the boundary to no. 25 Silver Pines through an omission of the northeastern end of the block (affecting three apartments) would be warranted, given the extent of sunlight and overshadowing impacts on these properties. This could be addressed by way of condition should the Board be minded to grant permission.

11.9.15. To the north and east, the proposed development is stated to likely result in “slight” to “moderate” overshadowing of sections of the adjoining greenway route at various times throughout the day over the course of the year. Notwithstanding shadows cast by the proposed development, the section of greenway route between Brewery Road and Leopardstown Road is likely to remain capable of achieving the level of sunlight recommended by the BRE Guide for amenity spaces to appear adequately sunlit throughout the year. I have no concerns in relation to the impact on the greenway.

11.9.16. Leopardstown Lawn to the northeast is assessed also in terms of APSH (11 dwellings assessed, labelled zones 20-30, pages 32-34 of chapter 18 of EIAR). The impacts are rated as ‘imperceptible to moderate’ on six of the houses, with values of 25% annual APSH and 5% winter APSH being maintained post development, however, the reduction is 0.56 to 0.64 the former value and more than 4% the annual APSH. Two of the properties are rated as having an ‘imperceptible to slight’ impact, with APSH values maintained post development, however, the reduction is 0.73 to 0.77 its former value. Two properties are rated as ‘imperceptible to not significant’, with APSH values being met, however the differences in Annual APSH is greater than 4%. The impact on the last property is rated as ‘imperceptible’, with all criteria met. I note in no instance are all three criteria breached. While I acknowledge there will be impacts, this is inevitable where zoned land is to be developed at a density greater than that the existing adjoining which in this instance is particularly low scale in nature. I consider the level of impact on daylight as assessed against BRE guidance and the ratings applied and I am of the opinion that the level of impact is acceptable and will not result in a significant negative impact on the amenity of existing dwellings at Leopardstown Lawn. I note the design of the blocks laid out in a

finger like fashion toward the existing greenway/rear of Leopardstown Lawn, which mitigates the visual impact of the development while allowing for a more active built edge and activity to the greenway, as well as mitigating overshadowing effects. I consider the level of impact acceptable within the context of this evolving urban area, which is well serviced and accessible, and where a higher density development is to be expected in accordance with the zoning and development plan policies for the area. I consider the design and layout of the development has had sufficient regard to the existing context of surrounding properties and the urban design solutions as proposed are considered positive given the context and benefits of developing the site.

11.9.17. With regard to the Laura Lynn Hospice, 10 windows are assessed, 9 of which relate to the closest building to the road to the northeast of the hospice site. Having regard to the BRE standards, impacts are stated to be moderate in terms of APSH, with a 'moderate to significant' rating applied in the submitted assessment 'out of an abundance of caution' due to the use of the building. I note the existing annual and winter APSH values are below the standard baseline pre development (ranging from 9%/13%/16% for annual APSH; and 0% winter APSH). The development results in a reduction in sunlight of 0.62 times the former value on three of the windows; 0.56 on one of the windows; 0.61 on four of the windows; 0.69 on one of the windows; and in excess of 0.8 on the building furthest away from the site. There is more than a 4% reduction to the annual APSH value in 7 of the 10 windows, with results where they are in exceedance being at 5% to 6%. While I note the sensitivity of the particular use, given the separation distances involved, the location of the hospice south/southeast of the development with potential for material overshadowing to be low, the existing high boundary wall, and the low APSH values pre development, I consider the impact as analysed to be overall acceptable as moderate against BRE guidance, and will not result in a significant negative impact on the amenity of users of the building in terms of access to sunlight when the totality of the impact is considered against wider planning gain of developing the site, including improved activity and urban edge to Leopardstown Road, improved footpath and cycle lanes, and improved access to Leopardstown Park and link to the Luas stop.

#### Impact of Overshadowing on Amenity Space of Neighbouring Properties

- 11.9.18. The submitted Daylight and Sunlight Assessment assesses the impact of the proposed development on amenity spaces of the adjacent properties. The BRE guidelines recommend that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March, or not less than 0.8 of its current situations. As for all tests, balance may be required to be applied.
- 11.9.19. The neighbouring rear gardens at The Chase, Silver Pines (including the Anne Sullivan Centre), Leopardstown Lawn and Leopardstown Avenue were assessed. The BRE Guide recommends analysing sunlight access to gardens on 21st March. Having regard to the azimuth of the sun over the course of that day (e.g. 88° at sunrise; 272° at sunset), it was not considered possible for the proposed development to result in material overshadowing of lands to the south of Leopardstown Road on 21st March. Given this, no gardens or amenity areas to the south of Leopardstown Road have been analysed. I accept this methodology as complying with BRE guidance.
- 11.9.20. With regard to dwellings at Sir Ivor Mall, the analysis indicates that at least half of each garden along this street will continue to receive at least two hours of sunlight on 21st March after the construction of the proposed development. The potential impact of the proposed development on sunlight access on these gardens on 21st March is assessed as “imperceptible”/“imperceptible” to “slight”. The same results arise in relation to the other terraced dwellings along Minstrel Court, with the exception of the mid terrace dwelling at no. 2 Minstrel Court, which is particularly noted in the submitted CE Report as a concern. The submitted sunlight analysis states in relation to this garden, that there is likely to be a reduction in sunlight access to this garden (11 sqm) during early morning of 21st March. This garden is indicated to be small and heavily overshadowed due to the extent of construction that has taken place in the rear garden of the house. ARC’s analysis indicates that the proportion of the garden capable of receiving two hours of sunlight on 21st March will drop from 42% (between 9.00 am and 11.00 am) to 21% (between 10.30 am and 12.30 pm), a drop to 0.50 times its former value. Having regard to factors outlined in Appendix I: Environmental Impact Assessment of the BRE Guide and to the likely reduction in sunlight access to this garden to between 0.5-0.7 times its former value on 21st March, this impact is assessed as “moderate” in extent. I have considered the specific circumstances and context applicable to no. 2 Minstrel Court, including

the existing level of overshadowing and extent of the dwelling on the site, and I consider the moderate impact to be acceptable.

11.9.21. With regard to the dwellings at Silver Pines, I note the results for each of dwellings no. 22-25 states “shadows cast by the proposed development are likely to result in a considerable reduction in sunlight access during the morning and for most of the afternoon, when sunlight tends to be most valued. Given this, notwithstanding that the potential impact of the proposal does not fall within the range for adverse impacts set out in the BRE Guide, it is stated that some may consider additional overshadowing of this garden to fall within a moderate to significant range”. I note no.s 22 and 23 are mainly affected in the afternoon and not the morning, with their impact rated as “moderate”, with the main impact of both morning and afternoon light on no.s 24 and 25 (labelled zones 15 and 16). I refer the Board to page 45 and 46 (labelled zone 15 to zone 18, as per figure 18.1 on page 10) of chapter 18 of the EIAR in relation to the detailed tables of percentage impacts. I have examined the overshadowing diagrams against this result and note impacts arise from the proximity and height of Block F relative to this boundary (see also overshadowing diagrams for 21<sup>st</sup> March in chapter 18 of EIAR). I consider that a modification of design in relation to Block F is warranted to address the extent of overshadowing. I consider a condition should be attached to any grant of permission to reduce the extent of Block F by omitting the end apartments proximate to this boundary, ie apartment nos. 12, 24, and 36, thereby increasing the separation distance to 11m and mitigating the overshadowing impacts.

11.9.22. With regard to the Anne Sullivan Centre, the submitted analysis indicates that the construction of the proposed development is likely to result in a considerable reduction in sunlight access to the garden area (312 sq m) during the morning of 21st March, although this does not fall within the range of noticeable or adverse impacts under the BRE Guide. The analysis indicates that at least half of the garden will continue to receive at least two hours of sunlight on 21st March after the construction of the proposed development. The submitted Daylight and Sunlight Assessments states that taking a conservative approach and noting the extent of reduction in sunlight access during the morning of 21st March, this impact is assessed as “imperceptible” to “moderate”. Having reviewed the predicted impacts and having regard to the low scale of development on the site of the Anne Sullivan

Centre and the extent of garden area at the boundary as well as extent of retained trees, I consider the proposal will not result in a significant negative impact on amenity in terms of overshadowing and that the proposal is in accordance with BRE guidance in this regard. The application of a higher impact given the use of the site is noted, however, I do not consider the level of overshadowing arising is in itself significant.

11.9.23. Leopardstown Lawn is assessed on pages 47 to 52 of Chapter 18 of the EIAR with impacts illustrated on the overshadowing plans in the submitted appendix 18.1 at the end of that chapter. Given the form of the buildings, the overshadowing impacts particularly affect the early afternoon light (3pm overshadowing plan) to no.s 7 and 8 (labelled zones 22 and 23) and house 4 (labelled zone 26), and also late afternoon sun (from 4pm) across all the gardens. The analysis indicates that at least half of the gardens will continue to receive at least two hours of sunlight on 21st March after the construction of the proposed development, with impacts listed as imperceptible to moderate. I acknowledge there will be overshadowing and an impact on evening level sunlight, however, having regard to the BRE guidance, balanced against other planning criteria, including addressing of blocks to the existing greenway, proximity to high quality public transport, employment and services, and achieving an appropriate level of density on this zoned and serviced site, I consider the anticipated level of impact is reasonable in this urban context, will not result in a significant negative impact on the residential amenity of neighbouring properties, and is overall in compliance with BRE guidance with two hours of sunlight achieved on 21<sup>st</sup> March.

11.9.24. The overshadowing analysis with regard to the Laura Lynn Hospice states the potential of new development to result in material additional overshadowing of lands to the south is low, however, it is noted that the proposed development is likely to result in additional overshadowing of north-facing windows at the LauraLynn House Children's Hospice towards Leopardstown Road during the late evenings of the summer months, which is rated as a moderate to significant impact under a worst case scenario. I note the limited extent of the impact of the development on the Laura Lynn Hospice, and having regard to all planning matters, I do not consider the impact would result in a significant negative impact on the amenities of users of the hospice.

## Impacts of Block F – Sir Ivor Mall, The Chase and Silver Pines

- 11.9.25. Block F, is approx. C-shaped, has a boundary with Leopardstown Road to the south; shares a boundary with the rear of a terrace of six dwellings at Sir Ivor Mall to the southwest; shares a boundary with the rear of a terrace of eight dwellings at The Chase to the northwest; and shares a side boundary with no. 25 Silver Pines. The section of Block F facing the boundaries with Sir Ivor Mall, The Chase and no. 25 Silver Pines is three storeys high, with the section facing Leopardstown Road/the end of terrace at Sir Ivor Mall is six storeys high.
- 11.9.26. With regard to the arm of Block F facing Minstrel Court, given its staggered footprint at ground level, the three storey section of this block is 13.5m from the boundary at its closest point, with this distance increasing to 22m between first floor levels (less where single storey returns exist to the rear of the dwellings). I note the dwellings in Minstrel Court have shorter rear gardens than average, with dwellings no. 1-4 having a rear garden depth (from their two storey elevations) of approx. 7m, with dwellings 5-8 having rear garden depths of approx. 6m. The distance between first floor windows in the houses to the three storey arm of the apartment block is however 22m due to the set back of Block F. I further note that in the design of Block F at first and second floor level the windows to the living rooms are recessed a further 2m when compared to the kitchen spaces, thereby providing for additional separation from the activity associated with the general living spaces to c. 24m. The proposed development will increase the perception of overlooking being one floor higher than the dwellings and will have an impact on the outlook for existing dwellings, replacing as it does large rear gardens to individual houses fronting Leopardstown Road. However, I consider the distances proposed between the two storey houses and the three storey apartments is reasonable in a densifying urban area and will not in my opinion result in a significant negative impact. The Sustainable Residential Density Guidelines states the 22m standard between first floor windows should be applied flexibly in infill situations having regard to the design proposed. This is an evolving urban context with development in existence adjoining the development site. I consider the design as proposed has had appropriate regard to the existing dwellings and the separation distances proposed are in my opinion acceptable and will not give rise to significant negative impacts on existing residential amenity of Minstrel Court. I have considered the impact in terms of



sunlight-daylight in more detail above, the results of which I consider acceptable in terms of impact. I note the planting plan along the boundary, which will mitigate further the altering townscape at this location.

11.9.27. With regard to the side elevation of no. 25 Silver Pines, which shares its side rear garden boundary with the side of Block F, the design of the three storey gable end of the block indicates no windows or balconies on this elevation. There is a separation distance of c. 5.4m from the shared side boundary. Given the design, no significant overlooking arises, with the balconies to the rear of the block giving rise to oblique overlooking, which will not in my opinion result in a significant negative impact on amenities of existing dwellings, particularly if side screens are applied. I do not consider the outlook affected is of such a scale as to require amendment of the design, however, I have considered issues of sunlight and overshadowing of private amenity space above, and I consider a reduction in the extent of Block F at this boundary would be warranted so as to create a greater separation distance and thereby reduction in overshadowing (as discussed elsewhere in this report). A condition could be applied to address this issue, should the Board be minded to grant permission.

11.9.28. With regard to the arm of Block F facing the rear of Sir Ivor Mall, I note separation distances of 22m at first floor level, with the staggered living room/kitchen arrangement (as noted above) increasing the separation distances in part to 24m. I note the rear garden depth of no. 6 has been reduced from 11m to 7.8m due to a permitted extension at that property, with the separation distance between no. 6 and the 3 storey arm of Block F being 18m-20m at first floor level. While new developments aim to achieve a 22m separation distance between the rear of directly opposing windows at first floor level, this is a distance which is generally reduced over time as people make modifications to their homes with extensions to the rear, or dormer extensions, and therefore it is not a hard and fast rule that 22m must be maintained in all circumstances. I have considered the scale of the three storey block, in addition to the staggered building line at ground level and first floor level, and the distance of approx. 11m of Block F from the boundary, and in my opinion the design, scale and massing of Block F will result in a development which is not overbearing and will not have a significant negative impact on existing residential amenities of properties along Sir Ivor Mall. I note the angled side boundary to no. 6

Sir Ivor Mall and the positioning of the six-storey arm to Block F relative to that angled boundary, with a separation distance of 12.5m to the boundary. I consider the six storey element can be accommodated at the location shown without having a significant negative impact on existing residential amenity of no. 6, with the primary impact of the six storey element being on Leopardstown Road, with this element providing an angled more urban frontage to the existing street at this location.

#### Impact of Block D – Silver Pines and Anne Sullivan Centre

11.9.29. The CE Report considers the applicant has not adequately set out how the development responds to the Anne Sullivan Centre as it has failed to include a viewpoint showing the 8-10 no. storey Block D to the rear of the single storey centre. This is considered a serious omission which as a result does not demonstrate the impact of the height proposed on a sensitive land use immediately adjoining the site (I have addressed this issue under section 11.5 above).

11.9.30. The Anne Sullivan Centre comprises a series of interconnected single storey building and the Centre also owns 4 no. two storey houses within the community adjacent to the centre, within Silverpines. A submission from the Anne Sullivan Centre raises concerns in relation to impact of the development on the vulnerable nature of the residents in the Anne Sullivan foundation, who have complex needs and require significant care, many of whom have been living here happily for 20-30 years. Concerns are raised in relation to the excessive height and massing of Block D proximate to the boundary; concern in relation to lack of transition in scale away from the boundaries which consists of a number of single storey residential/day service buildings to a 8-10 storey apartment building approximately 30m on average from the boundary; the proposed scheme does not respond to the particular conditions and degree of sensitivity of the adjacent lands; it is stated the loss of daylight, overshadowing and overlooking will have a detrimental effect on the residents of the Anne Sullivan Centre; Block 'D' should be reduced in mass and height to maximise access to natural daylight, ventilation and views and to minimise overshadowing and loss of light to the Anne Sullivan Centre; the submitted wind impact assessment demonstrates that the 8-10 storey block D will have an adverse effect on the lands within the Anne Sullivan Centre creating micro climate effects for residents who are already unsteady on their feet; notwithstanding the retained tree boundary it stated in the submission that due to its height and the design of the

elevations it is considered that the proposed Block D will directly overlook the Centre, especially the open spaces on the site that are used by residents/service users; will be visually overbearing when viewed from the centre; and will result in significant overshadowing of the Centre and the open spaces on the site to the long-term detriment of residents/users and it is requested that the height be reduced to five storeys.

11.9.31. Block D is 8 to 10 storeys high, with an additional 5 storey section addressing the Leopardstown Road. Its rear aspect is positioned toward the northwestern boundary with 22-25 Silver Pines and the Anne Sullivan Centre. Block D is angled in its layout with the eight storey level set back and the 10 storey section positioned at its northern end, being roughly square in shape. There is an overall separation distance of 40-43.5m between Block D (excluding balconies) and the dwellings in Silver Pines. Block F is positioned to the side of no.25 Silver Pines. The 10 storey element, which is to the rear of the Anne Sullivan Centre, is 23m at its closest point to that boundary, with a distance of 29m between the closest single storey building in the Anne Sullivan Centre and Block D.

11.9.32. With regard to the two storey dwellings at Silver Pines, the outlook will undoubtedly change for the existing residents and Block D will be clearly visible. However, this is a zoned serviced site in an evolving urban area and I consider the outlook, while different, will not be out of place in this residential area. Given the separation distances involved, the angled form of the building relative to no.s 22-25 and the upper set back of the eight floor, the height while significant will not in my opinion be overbearing or have a significant negative impact in terms of privacy or overlooking of dwellings. I further note trees to be retained along this boundary and the boundary with the Anne Sullivan Centre will soften the visual impact of the block. This is an evolving urban area and while I note concerns that this area is outside the Sandyford Urban Framework Area, this is not to say that buildings of height at this location cannot be considered. Having regard to the submitted sunlight-daylight analysis in addition to the existing context, I consider the development as proposed can be accommodated at this location. I note the CE Report considers the height of Block D should be reduced to six storeys and a submission from the Anne Sullivan Centre requests it be reduced to five storeys. While I do not consider that this is

warranted, for reasons set out above, it is open to the Board to consider such a condition.

#### Impacts of Blocks A, B and C – Leopardstown Lawn

11.9.33. Blocks A, B and C are 5-7 storeys high, rectangular in shape, and laid out in a finger like form with their shorter edges facing onto the northeastern boundary of the site. I note Block A is proposed to be the same height as previously permitted by ABP at this location, while Block B is to increase by two floors to 7 storeys. The northeastern boundary of the site is onto an existing pedestrian/cyclist greenway which connects the Leopardstown Road to the east to the Stillorgan Luas Terminus to the northwest. Block A is opposite the public open space of Leopardstown Park, which is on the northern side of the greenway. Blocks B and C are opposite the rear of dwellings which back onto the other side of the greenway, and relate to 1-10 Leopardstown Lawn, a cul-de-sac of semi-detached two storey dwellings. There is a pedestrian access from the end of the cul-de-sac onto the greenway. I note level differences involved. There is a separation distance of 8.6m from Block C (5-7 storeys) to the northern boundary and an overall separation distance from the rear elevation of the dwellings on the opposite side of the greenway of 40-48m. Block B (7 storeys, with 4 storey section) is approx. 42m from the rear elevation of dwellings on the opposite side of the greenway. I have had regard to the submitted LVIA (see section 11.6 and 13.19 of this report). Given the separation distances involved, the intervening use of the greenway, and the existing and proposed landscaping along the greenway, I do not consider the proposed development will have a negative impact on the residential amenities of existing dwellings in terms of overlooking, loss of privacy or overbearance. I further consider the proposed development will improve activity, overlooking and passive surveillance along the greenway to the benefit of users.

#### Pedestrian Movement and the Anne Sullivan Centre

11.9.34. Issues in relation to sunlight-daylight and height of the development relative to the Anne Sullivan Centre have been discussed elsewhere in this report. I highlight here concerns I have in relation to pedestrian/cyclist access to the development from Silver Pines and the lack of information submitted in relation to pedestrian facilities to the Anne Sullivan Centre from the entrypoint to the scheme at Silver Pines. I also

have concerns in relation to how the creche and its associated open space and proposed boundary would interface with the Anne Sullivan Centre.

11.9.35. I note there is an existing right of way to the Anne Sullivan Centre from the entrance at Silver Pines to the north of the existing building on the site. I note from site inspection that pedestrian access to the centre is not currently to the north of that building but is to the south of the building, at the corner of St. Joseph's building. There is no existing car movements supported within the grounds of the Anne Sullivan Centre with the site occupied by single storey buildings with pathways around and through and small open spaces around the buildings. It appears that parking is currently supported to the side of St. Joseph's House with this area utilised by staff and visitors. I note the submission from the Anne Sullivan Centre on this application does not comment on the pedestrian access to the site or indicate any parking requirements. There is no indication in any of the documents or on the site plan that the existing pedestrian access to the Anne Sullivan Centre is to be moved and it would appear to be retained on the basis of the site plan, which shows no boundary proposed closing off the existing access but provision for a boundary wall alongside the pedestrian access. As indicated in the submitted Access and Walking Quality Audit, the drawings submitted for audit (and for this planning application) do not show details of pedestrian and cycle facilities linking to the existing Anne Sullivan Centre. The applicant in their response to this audit issue states that 'pedestrian and cycle facilities will link to the existing Anne Sullivan Centre School. Also access through the proposed development will be retained for the Anne Sullivan School'. No drawings of this have been submitted. If the pedestrian access is to remain as it is, I do not consider the access arrangements retained to be satisfactory. It is proposed to locate a bin shed and a 2m wall up against the existing access, with a strip of c. 1.5m or less remaining as the main access to the centre. Given the nature of care provided by the Anne Sullivan Centre for the deafblind, it is imperative that a safe and secure pedestrian route, finished in a suitable surface, is provided from the entrance at Silver Pines to the entrance of the centre, which adjoins the corner of St. Josephs, and that a clear and safe access route is provided from the centre and for occupants of St. Josephs to the existing greenway along the northern boundary of the site, having regard to the location of the entrance ramp to the basement. With the increased usage of the entrance at Silver Pines by vehicular traffic above what exists

at present, the lack of a dedicated pedestrian path or alternative paved treatment to support pedestrians from this entrance into the site would likely result in a conflict with pedestrians access the apartments in St. Josephs as well as users of the Anne Sullivan Centre.

- 11.9.36. Should the Board be minded to grant permission, I recommend conditions be applied to address this issue and a stage 1 and stage 2 Quality Audit, to the standards required of the planning authority (ie it be independently undertaken by separate engineers), be submitted.

#### Impact of Development on Laura Lynn Children's Hospice and Foundation

- 11.9.37. The boundary to Laura Lynn along the Leopardstown Road comprises a high stone wall, inside which is an internal access road and parking area behind which low buildings are located. One two storey larger building is located to the northeast corner of the site and is more proximate to the boundary, with a narrow garden area between the building and the boundary wall. This building is opposite on the other side of the road to the 5-7 storey Block C. The submitted Landscape and Visual Impact Assessment (see section 11.6 and 13.19 of this report) states most of the outdoor play areas within the Laura Lynn grounds are located to the rear of the complex, away from the road and the site. The LVIA considers that while sensitive to intrusion or other disturbance, Laura Lynn is not highly susceptible to townscape and visual change on the site, being separated from the site by the wide Leopardstown Road corridor and the hospice parking area, and also due to the hospice being generally introverted in its layout. While the proposed development will be visible from the Laura Lynn Hospice site, I do not consider the outlook from the Laura Lynn Hospice will be negatively impacted. Given the separation distances involved, the existing high boundary wall, and the intervening width of the Leopardstown Road, and the location of the hospice south of the application site and having regard to the orientation of the Laura Lynn Hospice relative to the path of the sun (as discussed above under sunlight-daylight), I do not consider the impacts will result in a significant negative impact in terms of the visual or residential amenities of the area.

#### Conclusion

- 11.9.38. The protection of existing residential amenities requires balancing against the requirements for sustainable consolidated urban infill development in appropriate

locations, as supported by national policy. Having regard to all of the information before me, including the layout, design and separation distances involved, while there will impacts on the dwellings at Sir Ivor Mall, Minstrel Court/The Chase, Silverpines and Leopardstown Lawn in terms of outlook and the development will be visible when viewed from the rear of existing properties, the impacts are not in my opinion so great as to have a significant negative impact on the residential amenity of the existing dwellings or on the wider area such as would warrant an amendment to the layout or height, other than in relation to the 10 storey element of Block D. Having regard to the specific design and layout of the blocks, including separation distances and massing of the proposal, in addition to the result of the sunlight-daylight analysis, I do not consider overall the proposal will result in significant negative impacts on the residential or visual amenities of the area.

#### **11.10. Impact on Protected Structure and ACA**

11.10.1. Consideration of Architectural and Built Heritage, as well as Archaeology and Cultural Heritage are considered in the submitted EIAR and I refer the Board to sections 13.16 and 13.17 of this report hereunder. The applicant has submitted a separate report titled 'Report on the Architectural and Historic Significance of St. Joseph's (a protected structure)'.

11.10.2. The works proposed to the protected structure of St. Joseph's House include:

- The demolition of a single storey office, conservatory, glazed link, external store, external enclosed escape stairs with associated canopies, toilet extension and 3 no. associated outbuildings to the west of St. Joseph's House (demolition total approx. 158 sq m GFA);
- The removal of external steel gates, all external steel escape stairs, canopies, existing disabled access ramps, concrete steps, an external wall and associated roof area;
- Relocation of external granite steps and the provision of a new raised entrance terrace, concrete steps and ramp areas;
- Replacement of existing rooflights, the addition of roof lights, part new roof / new zinc roof, new external wall and roof to the east of the structure;
- The provision of new door and window openings;

- Modifications to internal layout including the removal of walls and partitions and the addition of new dividing walls.

11.10.3. The proposed apartment building closest to the east of St. Joseph's, Block A, was previously permitted at this location under a separate application by ABP and was the same design, height and distance from St. Joseph's as now proposed. Proposed Block 5 is of contemporary design and appearance and would therefore contrast with the Victorian Gothic architecture of the red brick St. Joseph's House. I have, notwithstanding this history on the site, assessed the application afresh in relation to the impact of the proposed development on the protected structure. Having reviewed all documentation submitted including photomontages, and all submission received, I consider that with regard to the height, scale and positioning of Block A relative to St. Joseph's, the proposed development would not negatively impact on the setting of this protected structure. I note the conservation officer in DLR County Council has raised no issues in relation to the impact on the protected structure or in relation to the neighbouring ACA (discussed hereunder).

11.10.4. With regard to Arkle Square ACA, which is located to the southwest of the application site, I have reviewed the submitted documentation and the DLR CDP Character Appraisal and Policy Framework relating to Arkle Square ACA, as well as all submissions received. It is stated in the CDP that Arkle Square 'represents one of the fine examples of alms houses built at the end of the nineteenth century throughout the country under the patronage of Charles Sheils and also represents an important architectural and social contribution to that building type. Furthermore it is a significant example of the work of the Irish important architectural practice of Lanyon, Lynn and Lanyon'. I am satisfied, given the scale of block F and its location and distance relative to Arkle Square ACA, and given the existing modern housing constructed already around Arkle Square, the proposal will not have a significant negative impact on the character or special interest of the ACA and will not impact negatively on the streetscape at that location. I note the development plan states that an ACA designation should not be viewed as a means of preventing new development but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA. I consider the proposed development is appropriate having regard to the guidance available and the design proposed.



### 11.11. Traffic, Transportation and Access

11.11.1. I refer the Board to Chapter 13 of the submitted EIAR and Section 13.13 of my assessment hereunder. A Traffic and Transport Assessment & Mobility Management Plan, a Quality Audit, DMURS Statement and Construction Environmental Management Plan have been submitted with the application.

11.11.2. Many of the observer submissions received raise concerns regarding inadequate car parking provision, impacts of overspill parking onto adjoining roads, capacity of existing street network, and concerns regarding capacity of public transport. The CE Report considers the level of parking is substandard and indicates the quality audit was not undertaken independently and therefore must be redone. It is also noted that there are pinch points in the design of the basement car parking and allocation of some bicycle spaces are inaccessible, as well as there being a discrepancy in terms of the figures.

#### Traffic Impacts

11.11.3. Two vehicular access points to the development are proposed, one from Leopardstown Road (left in, left out arrangement) and one via an existing entrance to St. Josephs from the Silver Pines residential estate.

11.11.4. The submitted TTA sets out the baseline environment including traffic data and junctions surveys, bus services, and proximity to two Luas stops. Traffic modelling was undertaken and a number of assumptions made in relation to future traffic and modal split (see section 13.13 hereunder, which includes an assessment of observers submissions).

11.11.5. The concerns raised by observers regarding traffic congestion are noted, particularly around peak hours. While I accept that the proposal will give rise to additional traffic movements, I consider that the impacts of such would not be so great as to warrant a refusal of permission, as demonstrated in the submitted TTA. I refer the Board to a previously permitted application on a portion of this site which permitted 131 units and 177 car parking spaces onto the surrounding road network. The proposed development of 259 car parking spaces will lead to an increase of 82 car parking spaces, over and above what was previously permitted. Having reviewed all submissions and the documentation received, I am satisfied that the surrounding street network can cater for the predicted traffic generation. I am satisfied that the

location and layout of the scheme will support modal shift to active modes and to the high quality public transport services in the area of the site. The development site as stated is located within close proximity to two Luas stops and an array of bus services. This in conjunction with the proposed improvements to public footpaths/connections will assist in promoting the use of more sustainable modes of transport. This is an urban area, where growth is to be expected in accordance with national and local estimates and it is the management of this growth into the future through a shift to sustainable transport modes which will support the sustainable development of zoned and serviced land and not the provision of additional cars on a finite road infrastructure. This is the policy approach supported by government and by the Dun Laoghaire Rathdown County Development Plan 2016-2022. Policy ST3 of the operative CDP deals with the matter of modal shift and states that 'It is Council policy that...effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy'.

11.11.6. The Stage 1 Quality Audit submitted raises concerns in relation to a number of areas with regard to a lack of information submitted which is summarised as follows:

- The drawings provided for audit do not show details of pedestrian and cycle facilities linking to the existing Anne Sullivan School.
- The drawings provided for audit do not include details of pedestrian walkways at basement level to facilitate pedestrian movement along designated routes. This should be confirmed by the design team.
- The drawings submitted to the auditors also do not show the extent or location of visitor car parking in the basement car park. Should visitor parking be restricted to the above ground parking areas this should be clearly indicated, both on the drawings and the final constructed scheme.
- No details of lighting have been provided to the auditors to confirm that sufficient light levels will be present both at ground and basement levels to allow pedestrians, cyclists and other non-motorised users to progress through the site along the designated routes. This is essential for the basement levels to engender a safe and secure environment for all users of this area

- It is not clear from the information provided for audit if the entry to the Home Zone areas will be signed. Without appropriate signage at this point road users may not be aware of the shared nature of the space ahead.

11.11.7. The applicant in response to issues raised has stated in the report that they will be addressed but has not submitted the relevant information. A condition in this regard would address issues raised, should the Board be minded to grant permission.

#### Car Parking and Cycle Parking

11.11.8. 259 car parking spaces, of which it is stated that 211 are dedicated to the residents, which equates to a ratio of 0.46 per apartment are proposed to serve 463 units, which is a ratio of 0.55 spaces per unit. 10 spaces will be allocated for car sharing clubs. It is proposed to provide for 968 bicycle spaces (816 at basement level and 152 at ground level).

11.11.9. The DLR Transportation Division report accompanying the CE Report considers the level of parking to be substandard and requests 1 space per unit be provided.

11.11.10. In terms of national policy, I note that both the NPF and Apartment Guidelines emphasise a need to move away from universal parking standards to a more tailored performance-based approach. In this regard, I note National Policy Objective 13 which states ‘...building height and car parking will be based on performance criteria...’ and National Policy Objective 27 which seeks ‘...to 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’. Furthermore sections 4.18 – 4.27 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 provide guidance in relation to car parking for various location types and seeks to encourage reductions in car parking provisions. Section 8.2.4.5 of the DLR County Development Plan also supports reduced parking in certain circumstances, dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.

- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- 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.

11.11.11. Having regard to the points above, I consider the site is at an appropriate location to seek reduced parking provision. It is clear that current national and local planning policy recognises the finite capacity of any street network and the requirement for a move away from car-based transport to more active modes of walking and cycling and a focus on public transport. The proximity of a development to public transport, walking/cycling infrastructure and jobs/services is key to the sustainable development of this developing community.

11.11.12. I note the number of submissions raise concerns in relation to the level of parking proposed, which is considered unrealistic and will result in overspill of adjoining streets, with problems raised in relation to parking and lack of spaces in Silver Pines and other neighbouring estates. Concerns are also raised in relation to the capacity of public transport. In addressing issues raised, I note the location of the development proximate/within walking distance of high employment areas and within walking distance/luas ride of shops and services. The proximity of the site to public transport is noted, with two luas stops within 1km of the site and high frequency bus services available within a 10min walk on the N11, as well as more localised services adjoining the site on Leopardstown Road and Brewery Road. The proposal provides for a largely car-free environment, which supports a safe and high-quality environment for residents. A proposed pedestrian link to the greenway will provide a direct pedestrian/cyclist connection to the luas and to the local park.

11.11.13. This is considered to be somewhat of a transitional area, as it moves away from lower density, suburban type dwellings to higher density development (offices and residential) to the west. It is stated in the submitted Mobility Management Plan

that a Mobility Manager will be appointed, which will ultimately come under the remit of the Management Company. The Mobility Manager will have a role in promoting and monitoring the provisions of travel plans within the residential development. A personalised travel planning will be implemented for residents with the objective of developing a sustainable transportation and access policy for residents of the proposed development both during and after the construction. While I acknowledge that there is a need for car storage, I consider the measures proposed within the Mobility Management Plan will manage the best use of onsite spaces and I further note that people buying into this development will be aware of its public transport accessibility and the limited parking policy, which may ultimately determine if they choose to live here. The removal of car storage from the site, shifting the residents to other means of transport, is in line with local and national policy in this regard. The provision of car club spaces will aid in the sustainability of parking provision, and will further reduce the traffic impact of the development. A Car Parking Management Plan should be submitted by way of condition, if the Board is disposed towards a grant of permission. While there may be issues of illegal parking in Silver Pines and surrounding estates, this is a matter for law enforcement and the planning authority, outside the remit of this planning application. I further consider any access access/egress issues from Woodford on the southern side of Leopardstown Road is also a matter outside the remit of this application. I consider the development as proposed can adequately cater for the parking requirements of future residents.

11.11.14. I note the applicant addresses the issue of car parking in the submitted Material Contravention Statement. Having regard to all of the above, I am of the opinion that the proposal does not represent a material contravention of the Development Plan in terms of car parking provision, and I address this issue further in section 11.13 hereunder.

#### Construction Traffic

11.11.15. I note the concerns raised by some parties regarding construction stage impacts. An outline construction management plan has been submitted by the applicant. The EIAR has addressed construction phase impacts of the development in terms of traffic, noise and impact on human health. All construction activities by their very nature result in elevated emissions (noise, dust, etc.) and increases in construction traffic above the baseline environment. However, these are temporary

and short term in nature and therefore will not have any long term or permanent amenity impacts. The applicant has also submitted a Preliminary Construction and Waste Management Plan and a Traffic Management Plan which includes the management of traffic during the construction phase. Both plans employ mitigation measures in relation to inter alia traffic management, noise and vibration, air quality and dust control. The implementation of these mitigation measures will further reduce the any adverse amenity impacts during the construction phase.

#### Conclusion – Traffic

11.11.16. Having examined all the information before me, I acknowledge that there will be some increase in traffic movements as a result of the proposed development if permitted, however, I am overall satisfied that having regard to the existing context of the site, level of connectivity to pedestrian and cyclist infrastructure, proximity to public transport, proximity to retail/commercial services, and amenities, and overall road network, that the proposed development would not lead to the creation of excess traffic or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

#### **11.12. Water Services, including Flood Risk**

##### Water and Wastewater

11.12.1. It is proposed to connect the development to the public water and foul sewer network in the area. Wastewater from the site is proposed be discharged into the Sandyford sewer system instead of the Leopardstown system to eliminate the risk of flooding and an on-site pumping station is proposed.

11.12.2. Irish Water (IW) in the submitted report on this application raises no objection to the proposed connection points, subject to a condition in relation to the pumping station. The Irish Water report notes IW are undertaking a project to augment the bifurcation of sewers at the Leopardstown Road and an existing Irish Water storage tank at Burton Hall Road. This upgrade project is currently ongoing and is scheduled to be completed by 2023 (this may be subject to change).

##### Surface Water Management

11.12.3. Surface water is proposed to connect into the existing surface water network. I refer the Board to Section 13.10 of this report hereunder.

11.12.4. In terms of surface water management, a SUDS strategy is proposed, incorporating green roofs, soft landscaping and permeable paving. Two buried attenuation tanks are proposed to attenuate flows from the in 100 year +20% climate change storm events. Discharge from the tanks will be controlled on a catchment basis by Hydrobrake flow control devices downstream of each tank. Surface water from the southern sub-catchment on site is proposed to drain to a soakaway. There is an emergency high overflow from the soakaway into the SW drainage system & out directly to the Silver Pines sewer in the event of a blockage. I note the Council Engineer states no objection overall to the strategy proposed, subject to conditions around certain design elements as proposed, which is stated can be addressed by way of condition..

11.12.5. A Site-Specific Flood Risk Assessment (FRA) was submitted as part of the application (see below).

#### Flood Risk

11.12.6. A Site Specific Flood Risk Assessment has been submitted. I note there are no watercourses on/within the immediate vicinity of the site. The site is within Flood Risk Zone C. No fluvial or tidal flood risks are identified.

11.12.7. I have reviewed the information submitted and all third party submissions which raise concerns in relation to loss of greenfield areas, excavation of granite and potential of flood risk. I refer the Board to Section 13.9 of this report hereunder.

11.12.8. The proposed FFL of the development has been set at +80.00mOD (above the max water level of 78.3mOD). Potential from a flood risk from a bursting of a watermain proximate to the site/to the northeast has been considered and determined not to be a risk due to higher ground levels of the site and the design of the scheme. With regard to the basement, it is stated that the top of ramp level is set 100mm above the adjacent ground level to eliminate the risk of any overland flow of water entering the car park. The basement to be surrounded in a waterproof concrete structure to be protected against groundwater ingress.

11.12.9. Wastewater from the site is to be discharged into the Sandyford sewer system instead of the Leopardstown system to eliminate the risk of flooding.

11.12.10. Overall, having considered all of the information before me, I am satisfied the applicant has adequately addressed the issue of flood risk in the submitted Site Specific Flood Risk Assessment, including the potential for pluvial flood risk, and proposes a surface water management strategy which indicates the proposed development will manage surface water from the site to the greenfield run off rate as per the GDSDS and will not impact on neighbouring sites. Should the Board be minded to grant permission, I recommend a condition apply requiring a Stage 2 Detailed Design Stage Stormwater Audit, the findings of which shall be incorporated into the development, where required, at the developer's expense and a Stage 3 Completion Stage Stormwater Audit within six months of substantial completion of the development, the findings of which shall be incorporated into the development, where required, at the developer's expense.

#### **11.13. Material Contravention – Building Height, Residential Mix, Residential Density, Trees, Car Parking, and Transitional Zone**

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

- Building Height (2-10 storeys).
- Residential Mix (85 studio units, 18.4%; 117 no. 1 bed units, 25.2%; 248 no. 2 bed units, 53.5%; and 13 no. 3 bed units, 2.8%).
- Residential Density (179 units per hectare).
- Trees (142 to be removed).
- Car Parking (259 spaces).
- Transitional Zone ( site is zoned Objective A and is located adjacent to a large area of land zoned Objective F).

#### **Building Height**

11.13.2. With regard to building height, the submitted material contravention statement states the proposal may be considered by ABP to materially contravene the DLR



development plan in relation the Building Height Strategy (BHS) being more than 3-4 storeys high, and that there are conflicting objectives, with the various caveats, presumptions and references in the BHS making it difficult to adjudge whether a proposal is in accordance with the BHS. It is stated that it is reasonable to conclude that there are objectives in the DLRCDP which are not clearly stated, insofar as the proposed development is concerned with regard to building height and therefore the proposed development can be granted permission under the provisions of section 37(2)(b)(ii) of the Act of 2000. It is stated that there is adequate support at national level to justify the height proposed, specifically SPPR3A of the Urban Development and Building Height Guidelines 2018.

11.13.3. The CE Report from DLRCDC states that the height as proposed materially contravenes the building height strategy and Policy UD6 of the County Development Plan.

11.13.4. I do not agree with applicant's position that the objectives are not clearly stated in the DLR county development plan in relation to height. Section 4.8 of Appendix 9 relates to 'Residual Suburban Areas not within the Cumulative Areas of Control' and states '...apartment or town house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate location'. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two. Given the height of Apartment Block B, C and D is in excess of what is allowed for in terms of the building height strategy, being greater than two floors above four storeys, assuming the upward modifiers are applied, I consider the proposal a material contravention of the building height strategy with regard to Blocks B, C, and D. I note Block A is 5 storeys in height and this was previously permitted under a previous application on this site. I have reviewed the BHS strategy with regard to Block A and consider it is not a material contravention of the development plan given the size of the site (greater than 0.5ha in area), proximity to public transport and potential to facilitate desire lines and high-quality public spaces. With regard to Block E, St. Josephs, no amendment to the height of this existing structure is proposed. With regard to Block F, which is at its highest 6 storeys, I consider upward modifiers apply also in relation to this block for the same reasons relating to Block A. While the CE Report considers downward

modifiers also apply having regard to the low rise character of adjoining areas, residential amenity of adjoining properties, Arkle ACA, existing trees and sylvan character, I have addressed these issues elsewhere in this report and I consider the design of the scheme has had adequate regard to neighbouring properties and the character of the site and evolving character of this area and I consider the height as proposed acceptable. I therefore do not consider a material contravention in terms of Block F applies.

- 11.13.5. Given the material contravention of Blocks B, C and D of the height strategy, it is open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

### **Residential Mix**

- 11.13.6. The applicant submits that the Board may consider the proposal a material contravention of the DLR county development plan in terms of unit mix, however, it is open to the Board to grant permission having regard to SPPR1 of the Apartment guidelines and SPPR4 of the Building Height Guidelines.

- 11.13.7. The CE Report states the proposed appears to comply with the apartment guidelines in terms of unit mix, however, it further states it has concerns that the proposed number of 3-bedroom units at 2.8% does not deliver on the requirements of Policy RES7, with the provision of 85 no. studio apartments considered alarming and considered excessive due to their limited size ranging between 37-40.5sqm. The CE Report considers that a scheme of this scale, should deliver a mix of units capable of catering for all profiles of residents, including families with children.

- 11.13.8. Objective RES7 of the DLRCDP states 'It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy'. S.8.2.3.3(iii), Mix of Units – Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m. I draw the attention of the Board to the fact that this section does not state that larger schemes over 30 units shall comprise...instead it states 'should generally comprise'. I am of the opinion that this allows for a degree of flexibility in this regard. I do not

consider a material contravention arises in relation to unit mix as set out in the DLRCDP, and I have considered the appropriateness of the unit mix elsewhere in this report. However, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 having regard to section 37(2)(b)(i) and (iii), as this matter has been addressed in Material Contravention Statement.

### **Residential Density**

- 11.13.9. I note that the matter of density has been addressed in the submitted Material Contravention Statement, although the applicants do not explicitly state that the proposal represents a material contravention in this regard, it is considered open to the Board to grant permission having regard to the national importance of the development and policies of the NPF, specifically NPO35.
- 11.13.10. The CE Report highlights Policy RES3 of the County Development Plan, whereby it is Council policy to promote higher residential densities if proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of the area, with the need to provide for sustainable residential development. The County Development Plan goes on to state that where a site is located within a circa 1km 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. The subject site is located circa 600m to Central Park Luas stop and 700m to the Sandyford Luas stop. A density of 179.4 units per hectare is proposed at a rate of 463 units on a net site area of 2.58ha. However, the CE Report considers that the proposed density is at the higher end of the spectrum for the County and is indicative of a scheme that exceeds the capacity of the site, having regard to its location and surrounding context of lower density development (generally 2 storey dwellings) and would fail to ensure a quality environment.
- 11.13.11. I note the CE Report, while raising concerns, does not state the density as proposed is a material contravention of the development plan. Having regard to RES3, I do not consider that the proposal represents a material contravention in relation to density. However, it is open to the Board to invoke section 37(2)(b) of

P&D Act 2000 as the matter has been addressed in the Material Contravention Statement submitted having regard to section 37(2)(b)(i).

### **Trees**

- 11.13.12. It is an objective on the zoning map relating to the application site 'To protect and preserve trees and woodlands', with the associated symbol positioned along the northeastern boundary of the site. The applicant considers it unclear as to whether the symbol applies to the boundary or to the whole site.
- 11.13.13. Section 8.2.8.6 of the development plan states 'New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps'. It is further stated 'Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition. A financial bond may be required to ensure protection of existing trees and hedgerows during and post construction'.
- 11.13.14. Having regard to the wording of the development plan that trees be incorporated 'in so far as practicable', which implies a degree of flexibility, I consider no material contravention issue arises. However, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 as the matter has been addressed in the Material Contravention Statement submitted having regard to section 37(2)(b)(ii).

### **Car Parking**

- 11.13.15. Section 8.2.4.5 of DLR county development plan states that 'the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. The Council considers the application of maximum parking standards for non-residential land uses to be a key measure in influencing the travel mode choice for all journeys. Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

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

11.13.16. The application site is appropriately located for the application of reduced parking standards. Maximum standards are given in the development plan and the proposal does not exceed those maximums.

11.13.17. I do not consider a material contravention in relation to this issue arises. However, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 as the matter has been addressed in the Material Contravention Statement submitted having regard to section 37(2)(b)(iii).

### **Transitional Zone**

11.13.18. Section 8.3.2 of the Development Plan details the Planning Authority's policy in relation to transitional zonal areas. Whilst the site falls within land zoned 'A', the land immediately adjoining it to the north is zoned 'F'. The development plan states it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone.

11.13.19. The submitted CE report states it is the opinion of the Planning Authority that the 'F' zoned land is the more sensitive zone. It is noted that the proposed development of block A at 5 no. storeys is noted to be positioned 9.038m to the south of the 'F' zoned land which is occupied by the greenway and Leopardstown Park. Noting the orientation of block A, the 5 no. storey height, its setback from the northern boundary of the site, the retained trees and the proposed tree planting at this location, the CE Report considers that the proposed development will not result

in an abrupt transition between the 'F' and 'A' zones in this instance. I concur with this view as set out in the CE Report and I do not consider a material contravention issue arises in this regard. However, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 as the matter has been addressed in the Material Contravention Statement submitted having regard to section 37(2)(b)(i).

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

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

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

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

11.13.22. Having regard to the provisions of Section 37(2)(b) of the Planning and Development Act (as amended), and based on the assessment above, I consider that a grant of permission may be considered to materially contravene the DLR County Development Plan 2016-2022 in terms of **building height** only and this would be justified in this instance under sub sections (i) and (iii) of the Act as examined hereunder.

11.13.23. With regard to S37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application site has the potential to contribute to the city's delivery of compact urban growth and to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

11.13.24. In relation to the matter of conflicting objectives in the development plan, S37(2)(b)(ii), I have reviewed the plan and there are no conflicting objectives within the Dublin City Development Plan 2016-2022, insofar as the proposed development is concerned. The Development Plan is clear in terms of building heights.

11.13.25. With regard to S.37(2)(b)(iii), I consider the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35. I have considered the proposed development against the Urban Development and Building Height Guidelines – Guidelines for Planning Authorities 2018. The guidelines state that implementation of the National Planning Framework requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before. I note SPPR3 of the guidelines, which references building heights.

11.13.26. I am satisfied that the proposal can be granted in relation to height with respect to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended), having regard to the NPF and the Urban Development and Building Height Guidelines 2018.

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

11.14.1. My conclusions on the matters raised in the refusal reasons recommended in the DLRCC Chief Executive Report is summarised here in the interests of clarity. The recommended reasons for refusal and my summarised response to each point is set out as follows:

1. Having regard to the proposed height, scale and separation distances to the boundaries, it is considered that the proposed development would appear visually obtrusive and overbearing when viewed from the properties at Sir Ivor

Mall, Minstrel Court, Silver Pines and the Anne Sullivan Centre. Furthermore, the proposed development would negatively impact the sunlight and daylight of properties at Sir Ivor Mall, Minstrel Court, Silver Pints, Leopardstown Lawn, the Anne Sullivan Centre and the Laura Lynn Childrens Hospice to an unacceptable extent. The proposed development would significantly detract from existing residential amenity and would depreciate the value of these properties, materially contravening the zoning objective A, which seeks 'to protect and or improve residential amenity' as set out in the Dún Laoghaire Rathdown County Development Plan 2016-2022.

I refer the Board to section 11.5, 11.6 and 11.9 of my report. I have considered the height scale and separation distances from all boundaries. I am satisfied that the development as proposed is acceptable, will not significantly detract from existing residential amenity and therefore will not materially contravene zoning objective A.

2. The proposed development, by reason of its overall scale, massing, layout and height would constitute overdevelopment of the site. Having regard to the proposed separation distances between the apartment blocks, the proposed development if permitted, would result in overlooking of habitable rooms and create a substandard level of residential amenity for future occupants of the proposed residential scheme and would be contrary to the Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

I refer the Board to section 11.5, 11.6 and 11.8 of my report. I have considered the height, scale, massing and design of the proposal, and I do not consider the proposed development would constitute overdevelopment of the site. I am satisfied that the development as proposed will result in an acceptable level of amenity for future occupants.

3. The proposed development fails to meet the criteria set out in Section 3.2 of Specific Planning Policy Requirement 3 of the Urban Development and Building Height Guidelines for Planning Authority, December 2018, in that at the neighbourhood/street level, the proposed development, ranging in height from two to ten storeys fails to integrate with the two storey housing at Sir Ivor Mall, Minstrel Court and Leopardstown Lawn. The proposed development



would therefore result in a visually dominant and overbearing form of development when viewed from Leopardstown Road, Sir Ivor Mall, Minstrel Court, the Anne Sullivan Centre and Leopardstown Lawn and would seriously injure the amenities of the area.

I refer the Board to section 11.5 and 11.6 of my report above. I am satisfied that the development as proposed is acceptable and will not have a significant negative impact on the visual and residential amenities of the area.

4. Having regard to the intermediate urban location of the site, it is considered that the proposed development would, by reason of the inadequate number of car parking spaces provided to serve the future occupants and visitors to the development, 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 Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the proposed planning and sustainable development of the area.

I refer the Board to section 11.11 of my report above. I am satisfied, having regard to the submitted TTA and the location of the site that the level of car parking proposed will support the sustainable development of this new community and the surrounding road network is capable of accommodating the development as proposed.

#### **11.15. Other Matters**

##### Constitutionality of Legislation and Ministerial Guidelines

- 11.15.1. Some submissions question the constitutionality of legislation and ministerial guidelines. It is beyond the remit of this report and recommendation to address constitutional matters.

##### Consultation

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

##### Procedural Issues

- 11.15.3. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations.
- 11.15.4. In relation to representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and it forms the legitimate process for the determination of this application.
- 11.15.5. I have reviewed all documentation as part of my assessment and site inspection and am satisfied the drawings and information submitted is in accordance with legislative requirements. I note a typographical error in relation to the naming of one property within the site. I am satisfied that this did not prevent the concerned parties from making representations and did not impede my assessment. The application was deemed valid when lodged with the offices of An Bord Pleanála.
- 11.15.6. I am satisfied that the applicant has demonstrated sufficient legal interest to make this application.

#### Property Value

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

#### Childcare Analysis

- 11.15.8. A childcare facility measuring 282sqm is proposed in the 2 no. storey re-development of St. Joseph's House. The proposed development, excluding 1 bed units from the calculation, would generate a requirement for a childcare unit with 70 child capacity. The location and scale of the childcare facility, which is stated to be capable of accommodating 115 childcare spaces is considered acceptable. The childcare facility is proposed to be served by 2 no. Play areas. Play area 1 measures 83sqm and is located to the west of the building. Play Area 2 is identified to the south of the building and measures 47sqm. This area is noted to vary in width between 1.5m - 2.09m. The Planning Authority considers that the area to the south of the building is too narrow at 1.5m-2.09m to be considered as open space to serve the childcare facility and is concerned that an inadequate area of open space has been provided for the childcare facility. I note the Childcare Guidelines do not specify

quantums of outdoor space to be provided as part of a childcare facility and I agree with the PA that the area to the south cannot be considered adequate in terms of open space provision. However, I note the area to the west of the building identified as play area 1 and I consider this space is adequate and well positioned to serve the childcare facility.

#### Community Infrastructure Statement

11.15.9. I am satisfied, having regard to the information presented with the application, that there is adequate capacity within schools in the area to accommodate the proposed development.

11.15.10. I note the planning report submitted considers availability of healthcare services and other services in the area. Having reviewed the site and area, I consider the level of services and amenities on offer is adequate to meet the needs of additional population at this location.

#### Climate Change

11.15.11. I note the location of the site within walking distance of the Luas and in an established urban area with services and amenities, including significant employment within a short distance of the site and within an overall short commute to Dublin city centre, with a focus in the proposed development on pedestrian/cycle connectivity within and into adjoining areas, promoting use of active travel and public transport over use of the private car.

11.15.12. I note that the matter of climate change has been addressed in the submitted EIAR and I am satisfied that no significant negative impacts are likely in relation to climate as a result of this development.

#### Part V

11.15.13. The applicant in the submitted planning report states they are 'aware that Part V of the Planning and Development Acts 2000-2020 has recently been amended by the Affordable Housing Act 2021. The applicant Homeland Silverpines Limited and their sister company Homeland CHB Ltd own the 11 properties subject of this application, all of which were acquired between February 2016 and February 2020 and fall within the purchase period of 1 September 2015-31 July 2021'. Nevertheless

a condition is recommended in relation to compliance with Part V legislation to be agreed with the Planning Authority, prior to the commencement of development.

## **12.0 Appropriate Assessment**

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

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

### **12.2. Background on the Application**

12.2.1. The applicant has submitted a Screening Report for Appropriate Assessment as part of the planning application, dated July 2021.

12.2.2. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Potential impacts during construction and operation of the development are considered as well as in-combination impacts.

12.2.3. The screening is supported by associated reports submitted with the application, including:

- Construction Environmental Management Plan
- Construction and Demolition Waste Management Plan
- Ecological Surveys (see EIAR)
- Hydrogeological Assessment of Proposed Soakaway
- Assessment of the Potential of Collision Risk for Birds
- Flood Risk Assessment
- Hydrogeology Report

12.2.4. The AA Screening Report submitted with the application concluded that:

The Proposed Development site at Berwick Pines, Leopardstown is not located within or directly adjacent to any Natura 2000 site. No source – pathway – receptor connection was identified between the Proposed

Development site and any Designated Site. The Appropriate Assessment screening process considered potential impacts which may arise during the installation and operational phases of the changes being considered. Through an assessment of the pathways for effects and an evaluation of the activities, taking account of the processes involved and the distance of separation between Natura 2000 designations in the wider study area, it has been evaluated that there are no likely significant adverse effects on the qualifying interests or the conservation objectives of any designated Natura 2000 site.

It is concluded that the Proposed Development, individually or in combination with other plans and projects, will not have a significant effect on a European site. Consequently, the Proposed Development does not require an Appropriate Assessment; there is, therefore, no requirement to progress to Stage 2: Natura Impact Statement (NIS).

12.2.5. Having reviewed the documents and submissions received, I am satisfied that I have sufficient information to allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### **12.3. Screening for Appropriate Assessment - Test of likely significant effects**

12.3.1. 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.

12.3.2. 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).

#### **Brief Description of the Development**

12.3.3. The development site/overview of the receiving environment is described in the submitted screening report (section 2.1). I refer the Board also to section 3 of this report above. The site is 2.58ha gross within the urban area of Dublin. The proposed development is for 463 no. apartments in four 4-10 storey blocks and conversion of a two storey protected structure into apartments and a childcare facility. The site

comprises a brownfield site, with part of the site occupied by a protected structure, which is to be refurbished and changed to residential use, and ten individual dwellings, which are to be demolished.

- 12.3.4. The environmental baseline conditions are discussed, as relevant to the assessment of ecological impacts, where they may highlight potential pathways for impacts associated with the proposed development to affect the receiving ecological environment (e.g. hydrogeological and hydrological data), which informs whether the development will result in significant impacts on any European Site.
- 12.3.5. The Screening report and Ecological Surveys within the EIAR note there are no alien invasive species on the site. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence that species listed in Annex II of that Directive are present. The habitat is overall of local biodiversity value. A bat survey was undertaken and bat species identified come within Annex IV of the Habitats Directive and do not feature as Qualifying Interests for any European sites within the Zone of Influence of the site. There are no water courses, bodies of open water or habitats on the site which could be considered wetlands. The habitats on the lands are not considered suitable for feeding or roosting birds associated with coastal SPAs, including Brent Geese. There are no important Brent Geese foraging areas adjacent to or in the vicinity of the site. Herring gull and Black headed gull (QI for South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA) were observed flying over (one black headed gull observed), however, there were no nesting gulls within the site. It is possible that other bird species, may commute across the site, flying through, or over the site, while moving from one area of local resource to another, however, such species are considered adept at navigating around our cities and would be expected to rapidly habituate to the presence of new structures in their environment. I have no concerns in this regard. The Carrickmines Stream flows approximately 850m to the south of the site and is connected with the Rockabill to Dalkey Island SAC (distance: c. 8.7 km downstream, via Irish Sea). This stream lies within Dargle subcatchment. Brewery Stream flows 570m north of the site and is connected with the South Dublin Bay SAC and the River Tolka Estuary SPA (distance: c. 3.2 km downstream). There is no direct source-pathway-receptor link from the site to these streams.

- 12.3.6. Surface water drainage from the proposed development will discharge into the public surface water network, which ultimately drains to Dublin and Kiliney Bays. A portion of the surface water (stated to be 33%) will discharge to the ground via a soakaway. As part of the surface water management system, it is proposed to install SUDS measures, including green roofs, permeable paving, compacted gravel, infiltration soakaway, and attenuation chambers. It is noted that the SUDS proposals are standard measures in all new developments and are not included here to avoid or reduce an impact to a European site. I have not considered the SUDS strategy for the site as part of this assessment.
- 12.3.7. Wastewater is proposed to discharge to existing foul sewers, through Silverpines into the Sandyford sewer system (instead of the Leopardstown system given issues of capacity during flood events with that sewer system), which will then carry the foul water to the Ringsend wastewater treatment plant, prior to discharge into Dublin Bay.
- 12.3.8. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Habitat loss/fragmentation
  - Habitat disturbance /species disturbance
  - Construction related - uncontrolled surface water/silt/ construction related pollution
  - Operational related – increase of wastewater to Ringsend Wastewater Treatment Plant

### **Submissions and Observations**

- 12.3.9. The submissions and observations from the Local Authority, Prescribed Bodies, and Observers are summarised in sections 7, 8 and 9 of this report. I note the following points in relation to Appropriate Assessment were raised in a submission from John Conway and Louth Environmental Group:
- One observer submission considers the information is ‘insufficient, contains lacunae, and is not based on appropriate scientific expertise’, with the following concerns highlighted:

- There are inadequacies and lacunae in the AA Screening Report and the Board does not have sufficient and/or adequate information to complete an AA Screening.
- The AA Screening assessment does not provide sufficient reasons or findings. Conclusions/statements do not identify any clear methodology and no analysis.
- The Screening Assessment is flawed as it does not consider all aspects of the development, such as construction compounds and haul roads.
- Screening is flawed as it does not consider all aspects of the development such as construction compounds and haul roads.
- Insufficient surveys to assess potential impact arising from bird collision/flight risks as the proposed development may impact flight paths.
- The Zone of Influence in the Screening Report is not reasoned or explained.
- NIS fails to identify and consider all potential impacts on protected bird species, including potential collision flight risk during construction and operation and the loss of ex-situ feeding sites.
- No regard/inadequate regard to the cumulative effects of the proposed development in combination with other development in the vicinity on the protected sites.
- AA Screening Report has regard to mitigation measures contrary to Habitats Directive.
- Insufficient site specific surveys carried out for purposes of screening, based on absence of site specific scientific evidence.
- Inadequate reasons in conclusions.
- Reference to and reliance on Ringsend WWTP is misconceived for screening purposes.
- AA Screening Report refers to impacts identified in EIAR, however does not explain how such impacts can be discounted in respect of impacts on conservation objectives of identified SACs and SPAs.



12.3.10. I note the submission from the Department of Housing, Local Government and Heritage, which concludes there is no likelihood of the development affecting any Natura 2000 site.

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

**European Sites**

12.3.12. The development site is not located in or immediately adjacent to a European site. A summary of the European Sites that occur within a possible zone of influence of the proposed development are set out with the screening report and listed below.

12.3.13. The submitted Screening Report identifies European sites within 15km of the site and further examines those European Sites considered to be within the zone of influence of the site. One observer questions the methodology of the AA Screening Report submitted and the use of a 15km distance in its report. I have not confined myself to a specific distance but have undertaken a site specific assessment based on characteristics of the site, distance to European sites and consideration of the source-pathway-receptor model. I further note the Department of Housing, Local Government and Heritage examined the site and has not raised any concerns in relation to the methodology.

12.3.14. There are no direct hydrological links between the application site and the identified European sites in the submitted Screening Report. The scope of the applicant's Screening Report is in my opinion acceptable and I have included hereunder a list of European sites and their relevant qualifying interests and separation distances from the application site.

12.3.15. European sites considered in the screening report are identified in figure 3.2 and table 3.1. I have considered the qualifying interests/special conservation interests of these European sites, in addition to examination of the application site in terms of the source-pathway-receptor model, and the distance from the application site to these European sites. A summary of European sites that occur within a possible zone of influence of the proposed development is set out below.

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

European Site	Distance	Screening Comment
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<p><b>South Dublin Bay SAC [000210]</b></p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	<p>c. 3.4km</p>	<p>South Dublin Bay SAC is designated for a range of coastal and estuarine habitats.</p> <p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development site and this SAC, nor do protected coastal or estuarine habitats occur within or in immediate proximity to the project site.</p> <p>Indirect connectivity exists to this SAC, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Rockabill to Dalkey Island SAC [003000]</b></p> <p>[1170] Reefs</p> <p>[1351] Harbour porpoise <i>Phocoena phocaena</i></p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species</p>	<p>c. 7 km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the development site and this SAC. The QI habitats and species are marine in nature and therefore do not occur within the project site.</p> <p>Indirect connectivity exists to this SAC, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p>

for which the SAC has been selected.		
<p><b>Ballyman Glen SAC (000713)</b></p> <p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[7230] Alkaline fens</p> <p><u>Conservation Objective:</u> to restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p>	c. 7.6km	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the development site and this SAC, nor do these habitats occur within or in close proximity to the project.</p> <p>There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Wicklow Mountains SAC (002122)</b></p> <p>[3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>[3160] Natural dystrophic lakes and ponds</p> <p>[4010] Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>[4030] European dry heaths</p> <p>[4060] Alpine and Boreal heaths</p>	c. 6.9km	<p>This mountainous SAC is designated for a range of habitats and for the conservation of otters found within the rivers of the Wicklow mountains.</p> <p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development site and this SAC, nor do any of these habitats occur within or in close proximity to the project. Given the lack of direct or indirect connectivity, the project will similarly not impact the otter populations associated with this SAC.</p>

<p>[6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i></p> <p>[6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>[7130] Blanket bogs (* if active bog)</p> <p>[8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladanii</i>)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> <p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>[1355] <i>Lutra lutra</i> (Otter)</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>		<p>There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
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<p><b>Knocksink Wood SAC (000725)</b></p> <p>Habitats 7220 Petrifying springs with tufa formation (Cratoneurion)*</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p><u>Conservative Objective</u> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>6.9km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Ballyman Glen SAC (000713)</b></p> <p>Habitats 7220 Petrifying springs with tufa formation (Cratoneurion)* 7230 Alkaline fens.</p> <p><u>Conservative Objective</u> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex</p>	<p>7.6km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>II species for which the SAC has been selected.</p>		
<p><b>North Dublin Bay SAC (000206)</b></p> <p>Habitats 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 2190 Humid dune slacks</p> <p>Species 1395 Petalwort (<i>Petalophyl lum ralfsii</i>)</p> <p><u>Conservative Objective</u> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>8.4km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p><b>Bray Head SAC (000714)</b></p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	11.2km	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Glenasmole Valley SAC (001029)</b></p> <p>6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) 10 Dec 2021 Version 1 Page 4 of 13</p> <p>6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) 7220 Petrifying springs with tufa formation (Cratoneurion).</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex</p>	11.2km	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>II species for which the SAC has been selected.</p>		
<p><b>Howth Head SAC (000202)</b></p> <p>Habitats 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 4030 European dry heaths</p> <p><u>Conservation Objective:</u> To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>	<p>12.3km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>South Dublin Bay and River Tolka Estuary SPA (004024)</b></p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p>	<p>c. 3.3km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct spatial overlap between the site and this SPA. The project site is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. There is no evidence of the project site being used by field feeding species, as per site surveys undertaken. The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>Indirect connectivity exists to this SPA via the Irish Sea, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through</p>



<p>[A149] Dunlin <i>Calidris alpina</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p>[A999] Wetland and Waterbirds</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>		<p>which surface water runoff could impact upon the wetlands associated with the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>Dalkey Islands SPA (004172)</b></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p><u>Conservation Objective:</u> to maintain or restore the</p>	<p>c. 6.7km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the project site and this SPA. The project site does not accommodate habitat that would provide for suitable nesting sites for terns. Terns feed within the marine environment on aquatic species and do not feed in terrestrial sites and as such the project site does not provide for tern foraging habitats.</p>

<p>favourable conservation condition of the species for which the SPA has been selected.</p>		<p>The project site is sufficiently remote (ca. 6.7km) so as to negate disturbance related impacts on tern populations accommodated within the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>Wicklow Mountains SPA (004040)</b></p> <p>[A098] Merlin <i>Falco columbarius</i></p> <p>[A103] Peregrine <i>Falco peregrinus</i></p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	<p>c. 7.2km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>

<p><b>North Bull Island SPA (00406)</b></p> <p>Birds: 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>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>Habitats: Wetland and Waterbirds [A999]</p>	<p>8.4km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
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<p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>		
<p><b>Howth Head Coast SPA (004113)</b></p> <p>Birds A188 Kittiwake (Rissa tridactyla)</p> <p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p>	13.6km	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p>
<p><b>Baldoyle Bay SPA (004106)</b></p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Wetland and Waterbirds [A999]</p>	14.1km	

<p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>		

Factors Likely to Give Rise to Potential Impacts

12.3.16. Habitat loss/fragmentation: In terms of the zone of influence, I note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The site does not contain any habitats listed under Annex I of the Habitats Directive.

12.3.17. Habitat disturbance/species disturbance: With regard to direct impacts of habitat loss and disturbance, the application site is not located adjacent or within a European site. Given the scale of works involved, the nature of the existing intervening urbanised environment and distances involved to European sites, habitat disturbance is unlikely to occur. With regard to indirect impacts, the area around the proposed development is suburban in style and the lands themselves are not suitable for ex-situ feeding or roosting of wetland birds. The site is too far from bird roosting areas to result in impacts from noise or other forms of human disturbance during construction and operation. One submission has raised concerns in relation to bird flight paths and potential for collisions. No significant flight paths related to protected birds have been identified in this area and the observer has submitted no evidence in relation to existence of flight paths. The submission from the Department of Housing, Local Government and Heritage raises no concerns in relation to potential impacts on birds or Appropriate Assessment issues. I furthermore note the proposed buildings are not particularly tall, there are other similarly scaled buildings in the area, and there is no reason to believe a bird would not fly over or around such structures. I further note the submitted report Assessment of the Potential of Collision Risk for Birds raised no concerns in relation to QI/SCIs of European sites.

- 12.3.18. Habitat Degradation as a result of air pollution impacts: Construction dust tends to be deposited within 350m of a construction site, with the majority of the deposition occurs within the first 50m. The nearest European site to the Proposed Development is c. 3.3 km away. The proposed development will not therefore result in the habitat degradation as a result of air pollution impacts on any of the European sites.
- 12.3.19. Habitat degradation as a result of hydrological impact: There is no direct pathway from the site to any European site. There is an indirect link via the existing surface water network and foul water network to Dublin Bay.
- 12.3.20. I note the surface water from the site will discharge to the public network and a portion (33%) will discharge via a soakaway to the ground. In terms of the construction phase, no effects to European sites can occur due to the fact that there is no direct pathway in existence. With regard to any potential pollutants or sediment arising from surface waters on site via the surface water network, given the distance involved from the site to Dublin Bay or Kiliney Bay, given the volume of water in the surface water network and potential for any sediments/pollution to be dissipated, and the level of mixing, dilution and dispersion of surface water in the receiving water, Dublin Bay and the Irish Sea, the proposed development will not impact the overall water quality status of Dublin Bay or Kiliney Bay and there is no possibility of the proposed development impacting the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay or Kiliney Bay. While a SUDS strategy is proposed for the development, I note this is not required or related to the protection of any European Sites and I have considered potential impacts with no SUDS strategy in place.
- 12.3.21. With regard to wastewater, this will discharge to Ringsend WWTP. Irish Water indicates that the Ringsend WWTP plant is operating above its capacity of 1.64 million P.E. (Irish Water, 2017), with a current operational loading of c.2.2 million P.E. Despite the capacity issues, the Liffey Estuary Lower and Dublin Bay are currently classified by the EPA as being of “Unpolluted” water quality status and the Tolka Estuary is currently classified by the EPA as being “Potentially Eutrophic”. I note that Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. I consider the peak effluent discharge from the proposed development would be insignificant given the overall

scale of the Ringsend facility and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay.

12.3.22. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality in Dublin Bay.

12.3.23. Habitat degradation as a result of hydrogeological impacts: The proposed development lies within the Kilcullen Groundwater Body (Dublin GWB). The European sites designated for groundwater dependent habitats/species, and which occur within the same GWB as the proposed site are: • Rockabill to Dalkey Island SAC [003000], • Dalkey Island SPA (004172), • South Dublin Bay SAC (000210), • South Dublin Bay and River Tolka Estuary SPA (004024) • Poulaphouca Reservoir SPA (004063). These sites are designated for a number of water-dependent species and habitats. As the Hydrological Assessment of the proposed soakaway indicates, the provision of an array of drains under the basement to equalise groundwater levels, and to provide continuity of flowpaths, is considered to represent an appropriate design measure, which will create a neutral residual drainage impact from the proposed development. Furthermore, given the depth of soil and weathered rock, it is considered there will be adequate natural filtration to ensure no suspended solids reach the aquifer. I have considered this with no SUDS measures in place. There is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of any

European sites, either alone or in combination with any other plans or projects, as a result of hydrogeological effects.

- 12.3.24. Cumulative Impacts: Other relevant projects and plans in the region have been considered and no cumulative impacts have shown to arise, as discussed in the above.

#### Conclusion

- 12.3.25. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses, and distance from European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site 000210 (South Dublin Bay SAC) and 004024 (South Dublin Bay and River Tolka Estuary SPA, and or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

- 12.3.26. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

## **13.0 Environmental Impact Assessment**

### **13.1. Statutory Provisions**

- 13.1.1. The development provides for the demolition of 10 dwellings, the conversion of St. Joseph's from residential care facility to residential use, and construction overall of 463 residential units and a childcare facility. The site, which is 2.58ha in area, is located within the administrative area of Dun Laoghaire Rathdown (DLR) County Council.
- 13.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:



i)Construction of more than 500 dwelling units

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

13.1.3. The proposal is on a site area greater than 2 hectares and comprises less than 500 dwelling units, with 463 units proposed. The applicant states that although the proposal is subthreshold, an EIA is required where a subthreshold development is likely to have significant effects on the environment and therefore should be subject to EIA and on this basis, it was decided to compile an EIAR in respect of the proposed strategic housing development.

13.1.4. The EIAR is laid out in two documents. One document comprises the Non-Technical Summary and the other comprises the EIAR document. Within the EIAR, Chapter 1 sets out the introduction and methodology. Chapter 2 provides a description of the site context and planning history. Chapter 3 establishes the nature and extent of the proposed development, and chapter 4 includes a consideration of alternatives. Chapter 22 includes a list of the competent experts involved in preparing the EIAR. Cumulative impacts are addressed within each relevant chapter. Chapter 20 deals with interactions of the factors required to be addressed. Chapter 21 comprises a Summary of Mitigation Measures.

13.1.5. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authority, prescribed bodies, appellant, observers and applicant has been set out at Section 7.0 and Section 9.0 of this report. The main issues raised specific to the EIA can be summarised as follows:

- Biodiversity
- Landscape and Visual Impacts
- Material Assets – Traffic and Transport
- Water and surface water management

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

## 13.2. Likely Significant Direct and Indirect Effects

- 13.2.1. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 13.2.2. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2001, as amended.
- 13.2.3. This EIA has had regard to the application documentation, including the EIAR, and the observations received, as well as to the assessment of other relevant issues set out in section 11 of this report above. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

## 13.3. Major Accidents/Disasters

With respect to Article 3(2), chapter 19 addresses Risk of Major Accidents and Disasters. Potential risks during construction and operational phases are identified. I note that there are no Seveso sites in the area. I note the site is not in an area prone to natural disasters. Potential for flooding is low and has been addressed in this EIA (and dealt with further below). Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that the risk of major accident is very low. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself.

## 13.4. Alternatives

- 13.4.1. Chapter 4 of the EIAR addresses the alternatives considered.

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

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

### 13.5. **Consultations**

13.5.1. One observation raises a concern in relation to the consultation process at scoping stage. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

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

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

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

13.6.2. With respect to cumulative impacts these are addressed within each chapter and have been adequately considered.

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

### 13.7. **Population and Human Health**

- 13.7.1. Chapter 5 of the EIAR addresses population and human health. The methodology for assessment is described as well as the receiving environment. Recent demographic trends were examined, with an analysis of census data undertaken.
- 13.7.2. Potential impacts are considered under land and soil, water, air and climate, material assets, cultural heritage and landscape and visual assessment. These aspects are dealt with in the specific chapters in this EIAR dedicated to those topics.
- 13.7.3. It is considered that the construction phase of the project may have some short-term negative impacts on local businesses/residents with impacts from construction traffic and possible nuisances associated with construction activity such as dust, noise and vibrations. Such impacts are classified as short term and in the longer term, the completed scheme is considered to have long-term beneficial impacts for local businesses, residents and the wider community. The construction methods employed, and the hours of construction proposed will be designed to minimise potential impacts.
- 13.7.4. With respect to population and housing, the proposed development will result in an additional population in the area of approx.1,246 persons, which in operational terms is considered to be significant and positive having regard to housing demand and the location of the site relative to employment areas.
- 13.7.5. In terms of impact on land use, the development of the site is in accordance with the land use zoning objective and in accordance with national policies for compact growth and efficient use of infill/brownfield land on a site well served by public transport. The impact in terms of land use during construction is considered to be significant positive and for the operational phase, to result in a likely significant positive impact, as it would realise the objective of compact urban growth through the efficient and effective use of zoned and services landbank to provide much needed housing for future populations.
- 13.7.6. In terms of employment, the development will result in the additional employment over of period of 40 months during the construction phase, which will have a positive impact on employment numbers and at operational stage will result in additional population with employment opportunities in close proximity and who will support local services and the local economy.

- 13.7.7. In terms of social services, the area has a range of health care facilities, childcare facilities and educational facilities. There is considered to be sufficient capacity in terms of schools and it is proposed to provide a childcare facility as part of the development.
- 13.7.8. Impacts on traffic and transport are considered and reference is made to other sections of the EIAR. Operational phase traffic is not anticipated to result in a significant impact.
- 13.7.9. Human health is considered in the context of lands and soil, water, noise and vibration, air and climatic factors, landscape and visual, traffic and transport, utilities, waste management, and daylight and sunlight. No likely significant negative impacts are identified. Further consideration is detailed and referenced within other chapters of the EIAR.
- 13.7.10. Potential cumulative impacts are considered in terms of increased population in the area and other developments in the wider area, with the overall cumulative impact considered to be long term and positive with regard to human health, as it is considered that residents will benefit from a high quality, visually attractive living environment, with ample opportunity for active and passive recreation and strong links and pedestrian permeability, with a direct and convenient link to high frequency public transport modes
- 13.7.11. Mitigation measures during the construction and operational phase are detailed. Reference is made to the Construction Management Plan (CMP). During the operational phase, to avoid negative impacts on population and human health, it is proposed to provide for a childcare facility, landscaping to mitigate against microclimate conditions, a comprehensive foul and surface water management system, energy efficient measures and high quality finishes and materials.
- 13.7.12. With respect to Residual Impacts, none are anticipated. It is considered that the overall impact will be a likely significant positive effect for the local area.
- 13.7.13. I have considered all of the written submissions made in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore

satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

### 13.8. Biodiversity

- 13.8.1. Chapter 6 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. Flora and fauna (birds, mammals, and bats) surveys were undertaken. Botanical and habitat surveys were undertaken on 10<sup>th</sup> and 11<sup>th</sup> July 2019, 16<sup>th</sup> and 17<sup>th</sup> August 2019, and 15<sup>th</sup> April 2021. Mammal surveys were undertaken on 10<sup>th</sup> and 11<sup>th</sup> July 2019, 16<sup>th</sup> and 17<sup>th</sup> August 2019, 11<sup>th</sup> and 18<sup>th</sup> April 2021, and 10<sup>th</sup> to 11<sup>th</sup> June 2021. I am satisfied that the timing of the survey work was appropriate.
- 13.8.2. The site is not located within or adjacent to a European site. It is stated that two European sites are connected hydrologically to the development area via streams. Carrickmines Stream, which is 850m south from the site, is connected with the Rockabill to Dalkey Island SAC (distance: c. 8.7 km downstream), via the Irish Sea. Brewery Stream, which is 570m north from the site, is connected with the South Dublin Bay SAC and the River Tolka Estuary SPA (distance: c. 3.2 km downstream). There is no direct pathway from the site to these streams. An Appropriate Assessment Screening Report has been submitted with the application, which is assessed under Section 12 above.
- 13.8.3. In terms of the receiving environment, habitats and flora are identified. It is stated that no habitats protected under Annex I of the EU Habitats Directive (92/43/EEC) were recorded within the proposed development site. None of the recorded species are listed in the Flora Protection Order (1999) and The Irish Red Data Book. No non-native species subject to restrictions listed in the Third Schedule (Regulations 49 and 50, European Communities (Birds and Natural Habitats) Regulations 2011) were recorded within site. The site was examined for otters and badgers and no evidence of activity was recorded.
- 13.8.4. Bat surveys were undertaken, which revealed a low density of foraging activity over the entire site by bats of the three most commonly occurring Irish species, common and soprano pipistrelles and Leisler's bat, which are also the least sensitive to artificial light. There was in addition a single record of the long-eared bat, which is also a common species in Ireland but is sensitive to light and usually occurs only in

areas with high tree cover. No maternity roosts were identified on the site nor any evidence of tree roosting, though a small number of trees were considered to have potential as roosts. Individual soprano pipistrelle bats were identified as roosting in two of the houses on the site and the Department has granted derogation licences in relation to these. Mitigation is proposed in relation to the surveying of trees before they are felled and the timing of such work, the erection of bat boxes, and the installation of a bat friendly lighting scheme throughout the development.

13.8.5. Frog spawn (*Rana temporaria*) was noted within remnants of a small ornamental pond in the grounds of Annaghkeen House, therefore there are frogs within the site. Frogs are protected under the Irish Wildlife Act (1976, amended 2000) and are listed on Annex V of the Directive on the Conservation of Natural Habitats of Wild Fauna and Flora (92/43/EEC). As the frog is a protected species measures will be required to protect any spawn or tadpoles present on the site when development commences, however mitigation measures do not address frogs, therefore, as recommended in the submission from the DAU, should permission be forthcoming, a condition is required that the site be surveyed for frog spawn and tadpoles by an ecologist and if any spawn or tadpoles are identified they shall be translocated under licence from the NPWS to a substitute pond located to a safe section of the development site.

13.8.6. A bird survey was undertaken. Bird species on site are limited to common species with suitable breeding birds' habitat available due to the vegetation on site. It is noted that a Black Headed Gull, which is a QI species for South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, was observed flying over the site and did not use the site. Considering the large areas of suitable habitat to the proximity of the site for black-headed gulls to forage and roost in, the proposed development will not result in displacement of populations of black-headed gull. The site offers no suitable foraging areas for species such as Brent geese or other shorebirds, given the site is composed of numerous narrow gardens with scattered mature trees and numerous shrubs. It is stated that there are no important Brent goose foraging areas adjacent to or in the vicinity of the site and there are no important feeding areas (as evident from site inspection and from Ecology Ireland Wildlife Consultants Ltd. intensive surveys of inland Brent Goose feeding sites in Dublin). As there will be no significant amount of foraging or roosting potential on site for such species it is highly unlikely that Brent geese will occur on site. It is possible that more mobile species,

may commute across the site, flying through, or over the site, while moving from one area of local resource to another. It is stated that such species are adept at navigating around our cities and would be expected to rapidly habituate to the presence of new structures in their environment, which I would concur with. As noted in the submission from the DAU of the Department, the bird species concerned are all commonly nesting suburban species with the exception of the long-eared owl, which was only recorded once on the site and was not considered to be nesting there. Loss of nesting habitat is therefore assessed as significant at a local level. The submission from the DAU considers such a loss must be weighed against the benefits to wildlife in general of focusing residential development on infill sites in suburbia, such as the present site, rather than allowing such development to expand into rural areas.

- 13.8.7. As per the submitted Arboricultural Report prepared by The Tree File Consulting Arborists, the site supports a total of 277no. individually described trees. 142 trees are proposed to be removed which equates to 51% of the pre-development tree population, which comprises 55 Category “B” items, 66 category “C” items, and 21 category “U” trees. The development will also result in the loss of numerous shrubs and hedges associated with the gardens of the existing dwellings proposed to be demolished. As per the submission from the DAU, the majority of trees and shrubs are non-native species, therefore their loss from a nature conservation perspective would not be seen as significant.
- 13.8.8. An ecological evaluation was undertaken to identify the likely significant effects during the construction and operational phases on key ecological receptors of designated sites, breeding birds, and treeline habitats.
- 13.8.9. Mitigation measures are set out in section 6.10 of chapter 6 of the EIAR. Tree/shrub planting (200 no. trees) will provide replacement nesting habitat and bird boxes are proposed. No vegetation will be removed during the bird breeding season to protect existing nests. The construction mitigation measures proposed are in my opinion appropriate in the context of protection of biodiversity and are not required for the protection of European designated sites. Mitigation measures include updating of derogation licence should permission be granted; supervision of demolition of houses by an ecologist; updated bat survey prior to demolition works; all trees shall be evaluated by a bat specialist prior to felling; all trees shall be felled outside of the



nesting season (March 1st to August 31st) unless it has been satisfied beyond question that there are no birds nesting within them by a suitably qualified ecologist. Operational phase mitigation measures include the provision of bat boxes and swift boxes to be incorporated into the gables facing the tree protection zones within the proposed apartment blocks and monitored within a year of the development being built; lighting plan which has given consideration to the existing natural habitat and the wildlife; phasing of removal of leylandii and cherry laurel; and materials used in the tall structures do not present the glass-wall high-reflective finish that has been shown to increase collision risk for certain bird species in other countries (e.g. USA).

13.8.10. Cumulative impacts of existing and proposed projects have been considered and no significant impacts are identified.

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

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

#### **13.9. Land and Soils**

13.9.1. Chapter 7 of the EIAR addresses land and soils.

13.9.2. The topography of the proposed development site is relatively flat, with a level difference from west to east of 2.18m, over a distance of 150m.

13.9.3. Geology maps and soil maps are provided. A Ground Investigation Survey was undertaken in September 2016 and July 2020. Trial pits were excavated and soil and infiltration tests undertaken. Made ground of 1.6m deep overlies firm to stiff brown sandy gravelly silt / clay, which in turn overlies residual weathered granite. The site area is classified by the GSI as a Poor Aquifer. Ground water on the site naturally drains towards the sea, approx. 2km east of the site. Aquifer vulnerability is classified as "H" (high) which infers bedrock is present within 3 to 10m of the surface below moderately permeable till. Groundwater was noted in TP03 at a depth of 2.7m, and rock was not encountered at refusal depths of 1.5m to 2.7m below ground in the

other trial pits. Rotary coreholes identified the rock depth in the northern part of the site at 2.1m to 2.7m below ground level.

13.9.4. It is stated in the EIAR that given the proposed residential use, the pollution index of the collected surface water discharging to the ground is “low” or “very low” as per the Ciria SuDS Manual. The SuDS interception features as well as the depth of soil and weathered rock through which the water will flow through before reaching the rock aquifer, will provide adequate natural filtration in accordance with the best practice guidelines of Sustainable Drainage Systems (SuDS), to ensure no suspended solids reach the aquifer below. I have considered this issue without SUDS intervention, and given the depth of soil and low pollution index of any run off, I do not consider it likely that there will be any significant impacts on the aquifer. Therefore it is considered that the aquifer will not be affected by the proposed development in terms of water quality or water quantity. It is acknowledged that a slightly concentrated recharge flow will occur, however, this will not have an impact on the groundwater table due to the permeable overburden and surrounding topography. The location and construction of the basement has been designed to ensure no interference with the groundwater regime. A specific assessment was undertaken in this regard and I am satisfied with the contents therein.

13.9.5. The following works are identified as having a potential impact on soils and geology during the construction stage:

- Approximately 5,250m<sup>3</sup> (approximately 0.3m depth across the site) of topsoil shall be excavated. This will result in the exposure of the subsoil to various elements including weather and construction traffic.
- Approximately 22,312m<sup>3</sup> (based on the formation depth of the proposed basement and estimated rock head level. Approximately 3.5m depth of existing subsoil, weathered rock and solid rock across the basement area) shall be excavated from the existing site in order to facilitate the construction of the new proposed basement soakaways and attenuation tanks. This will result in the exposure of the bedrock geology to various elements including weather and construction traffic (table 0.3 outlines the excavation amounts relating to soil, subsoil and rock).

- Rutting and deterioration of the topsoil layer and any exposed subsoil layers or bedrock by earthworks plant and construction traffic.
- Earthworks are required in the open space areas to accommodate underground surface water soakaway systems and other SuDS features.
- During the construction period, large machinery and associated fuel and fuel storage will be present on site. As a result, accidental spills and leaks (e.g. storage of oils and fuels on site), use of cement and concrete during construction works are inevitable during the construction phase.
- Approximately 2,700m<sup>3</sup> of fill (generally comprising normal stone used in the construction of roads, footpaths and buildings) will be required across the development.

The operational impacts on the land and soils would be limited, with one risk identified - potential cross contamination of ground water from the operational phase of the development from accidental oil spillages.

13.9.6. Mitigation measures are described for the construction phase, which are in the main related to best practice construction methods, such as wheel wash facilities, provision of bunded areas on site to prevent contamination, dampening down measures with water sprays in dry weather to minimise dust, and noise attenuation on rock breakers. Implementation will be via a CEMP, which will set out requirements and standards which must be met during the construction stage and includes the relevant mitigation measures outlined in the EIAR and any subsequent conditions relevant to the project. During the operational phase, the potential for the ground water to become polluted via oil spills will be reduced as far as is practical using an oil separator to take run off from carparking areas and passing through same prior to disposal. The drainage system proposed will incorporate sustainable urban drainage methods. No significant long-term impacts on soil, geology or hydrogeology, resulting from the proposed development are predicted.

13.9.7. Potential for cumulative impacts of the surrounding area, having regard specifically to permitted planning applications, have been considered. Cumulative impacts, if any, will be limited to the construction stage and will, therefore, be temporary to short-term in duration.

13.9.8. I note concerns raised in observations in relation to impact of excavation of granite and potential interaction in terms of flooding and noise and vibration. The potential to impact on groundwater flow has been considered in the design of the scheme, particularly in relation to the basement. I am satisfied that the EIAR and documentation submitted has considered potential issues in this regard and has also addressed interactions in terms of noise and vibration.

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

#### 13.10. **Water**

13.10.1. Water is addressed within chapter 8 of the EIAR. This chapter describes the surface water and groundwater regime.

13.10.2. The storm water drainage system, SuDs measures, watermain design and foul drainage proposals are described.

13.10.3. With regard to surface water, the site is subdivided into three catchments. It is proposed to discharge surface water from one sub catchment via an attenuation tank to an existing surface water sewer on the Leopardstown Road and another via an attenuation tank to an existing sewer in Silver Pines. The third sub catchment (southwest of the site) discharges to a large soakaway under proposed open space/landscaping with no direct discharge to the surface water sewer network. The site investigation supports the use of the soakaway at the proposed location. It is stated that an emergency overflow manhole will be connected to the soakaway, and link directly to the surface water network in Silverpines, bypassing the Catchment 1 flow control.

13.10.4. SUDS measures proposed include green roofs, soft landscaping, and permeable paving.

13.10.5. Foul water will discharge to the existing network in Silver Pines.

- 13.10.6. A Site Specific Flood Risk Assessment has been carried out (see section 11.12 of this report).
- 13.10.7. Potential impacts during construction and operational phases are detailed, including potential for surface water runoff during the construction phase to contain increased silt levels (e.g. runoff across areas stripped of topsoil) or become polluted by construction activities. This may wash out onto the Leopardstown Road at the southern end of the site; discharge of rainwater pumped from excavations; accidental spills and leaks associated with storage of oils and fuels, leaks from construction machinery and spillage during refuelling and maintenance contaminating the surrounding surface water and hydrogeological environments; concrete runoff, particularly discharge of wash water from concrete trucks; discharge of vehicle wheel wash water; and infiltration of groundwater into open excavations. At operational stage, the main potential risk is cross contamination of surface water from the operational phase of the development from accidental oil spillages.
- 13.10.8. Mitigation measures are described including the preparation of a Construction Environmental Management Plan (CEMP) which includes measures which will minimise potential impact on the surround water and groundwater environs, including inter alia impermeable cement washout areas; bunded areas; on-site settlement ponds/soakaways; provision of spill kits; and any spoil or waste material generated from the construction process is to be temporarily stored at an approved location on site, before being removed to an accepting licensed waste disposal facility. The impact following mitigation is considered to be not significant. Operational mitigation measures include the implementation of SuDS design measures in accordance with the CIRIA SuDS Manual and the GDSDS such as installation of a bypass Interceptor for basement drainage to take run off from carparking areas and passing through same prior to disposal to the on-site surface water system. The impact following the operational phase mitigation measures outlined above is stated to be imperceptible.
- 13.10.9. Cumulative impacts have been considered and it is considered that it is not likely to give rise to any significant effects cumulatively or, in combination with, other developments in the area.
- 13.10.10. I have considered all of the written submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the

measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water.

### **13.11. Air Quality and Climate**

- 13.11.1. Air and quality climate is addressed in chapter 10 of the EIAR. The methodology and receiving environment are addressed.
- 13.11.2. The primary sources of potential impacts during construction and operational phases are assessed, including air quality, climate and risks to human health. In terms of the sensitivity of the receiving environment, there are a number of high sensitivity (residential) receptors to the direct north, east and west of the site, a number of which are within 15m of the site boundary. The Children's Hospice is located to the direct south of the site is also identified as a sensitive receptor.
- 13.11.3. During the construction stage the main source of air quality impacts is indicated to arise from dust. In the absence of mitigation there is the potential for significant, negative, short-term impacts to nearby sensitive receptors as a result of dust emissions from the proposed development. Construction traffic emissions were also considered and a detailed air quality assessment was scoped out as none of the road links impacted by the proposed development satisfy the DMRB assessment criteria. The construction stage traffic has the potential for a neutral, imperceptible and short-term impact on air quality.
- 13.11.4. During the operational phase, the main air quality considerations relate to the number of vehicles and CO<sub>2</sub> emissions on the climate. The potential impact of the proposed development has been assessed by modelling emissions from the traffic generated as a result of the development, as per the traffic assessment, against the TII's Guidelines for the Treatment of Air Quality during the Planning and Construction of National Road Schemes (2011) and the modelled concentrations of NO<sub>2</sub> and PM<sub>10</sub> were in compliance with standards. Overall impact on air quality is rated as long-term, localised, negative and imperceptible. Greenhouse gas emissions during the operational phase are predicted to be negligible, with the overall impact on climate rated to be negative, long-term and imperceptible. It is stated that the development has been designed to reduce the impact to climate as much as

possible during the operational phase, with the Building Lifecycle Report outlining a number of measures which will reduce impacts to climate, including compliance with Part L (2019) building regulations and cycling and electric cars will be promoted.

13.11.5. Mitigation measures during construction are detailed including primarily a 'Dust Minimisation Plan', which is set out within Appendix 10.3 of the EIAR. Given the predicted level of traffic increase during operational phase, the impacts to air quality and climate are predicted to be imperceptible, therefore, it is stated, that no mitigation is required.

13.11.6. When dust minimisation measures are implemented, residual fugitive emissions of dust would be in short term and not significant in nature and will not result in a significant impact on human health and will comply with ambient air quality legislative limits. Monitoring of construction dust deposition at the boundary of site with nearby sensitive receptors during the construction phase of the proposed development is recommended to ensure mitigation measures are working satisfactorily.

13.11.7. Cumulative impacts are considered and no significant impacts are predicted.

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

## 13.12. **Noise and Vibration**

13.12.1. Chapter 9 of the EIAR evaluates noise and vibration associated with the construction and operational phases of the development.

13.12.2. Baseline noise monitoring was undertaken across the development and noise sensitive receptors were identified. Four noise monitoring locations were chosen close to the boundaries of the site. BS 5228:2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites with respect to the controlling noise and vibration impacts was examined against the baseline and projected impacts.

- 13.12.3. A number of submissions raise concerns in relation to construction noise and impacts of vibration. Potential noise impacts during construction are described, including noise arising from site clearance and building construction works. Construction predictions indicate that a significant impact may temporarily occur when works are on-going at the boundaries to the dwellings bounding the site, this is when works will be at 10m distance to the noise sensitive receptors. However, it is stated that the vast majority of the construction works will take place at distances from the receptors where no significant impacts are predicted, for instance at distances of 35m and greater there are no significant impacts predicted with the exception of the demolition and rock breaking phases which will be limited to a temporary period. Construction noise impacts are anticipated to be short term, have a negative quality, and be moderate to significant. Vibration impacts are considered at noise sensitive locations (10-50m from the site), with greatest potential for vibrations arising during rock breaking activity. It is stated that the likely levels of vibration from this activity is expected to be significantly below the vibration criteria for building damage on experience from other sites. Vibration levels are also expected to be below a level that would cause disturbance to building occupants. The impacts are predicted to be short-term, negative and not significant. During the operational phase, consideration is given to noise arising from additional road traffic with the TIA submitted forming a basis for the assessment. The predicted impact of increase in noise levels associated with vehicles at road junctions in the vicinity of the development is rated as long-term, neutral and imperceptible.
- 13.12.4. A noise risk assessment has also been undertaken in accordance with the Professional Practice Guidance on Planning & Noise (ProPG), 2017. The Leopardstown Road is noted to contribute significant noise levels on the southern boundary of the site. The site is categorised as Medium to High Risk depending on the proximity to the Leopardstown Road, therefore an Acoustic Design Strategy has been undertaken.
- 13.12.5. Mitigation measures are detailed for construction, such as limiting the hours of operation of activities which create high levels of noise or vibration; liaison with the public/developer/LA and monitoring; selection of plant with low inherent potential for generation of noise and/ or vibration; and solid site hoarding etc. Regular noise and vibration monitoring will be undertaken during the construction stage at locations



representative of the closest sensitive locations to ensure the relevant criteria are not exceeded and vibration monitoring will be required at St. Joseph's House. At operational stage, it is considered that facades along the southern boundary will be provided with glazing and ventilation that have sufficient sound insulation performance to meet current standards.

13.12.6. Cumulative impacts were considered and permitted developments within 350m of the site were reviewed. With appropriate mitigation measures in place, the predicted cumulative noise and vibration impacts associated with the construction phase of the proposed development are deemed short-term, negative and moderate to significant depending on the stage of construction.

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

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

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

13.13.1. Chapter 13 of the EIAR details the Traffic and Transport assessment. The Board is referred to section 11.11 of my report above also in respect of impacts on traffic and transport.

13.13.2. The existing public transport network serving the site is described. There is a bus stop on the Leopardstown Road which is serviced by one bus route, 114, connecting Ticknock to Blackrock Rail Station (frequency of 30-45mins during peak time). There is a bus stop on Brewery Road, approx. 3 mins walk from the site, served by the 118 bus route between Kiltiernan and Eden Quay. The N11 bus corridor is approx. 16 mins walk from the centre of the site and is served by 5 bus routes to the city centre, with 10 minute intervals at peak periods. The Sandyford Luas Stop, which is accessed via the existing greenway adjoining the northern boundary of the site, is approx. 680m from the centre of the site and the Central Park Luas Stop is approx. 800m from the site.

- 13.13.3. Baseline traffic data was gathered and junction surveys were carried out. I note the traffic counts were undertaken in May 2019. Submissions raise concerns in relation to the timing of the surveys and data utilised. Given the impact of Covid 19 on traffic from March 2020 to the present, I consider an update of the 2019 surveys would not be entirely beneficial and I am satisfied the May 2019 surveys are a reasonable snap shot of traffic in the area and that the methodology as set out in section 13.2 of chapter 13 is robust and reasonable.
- 13.13.4. Traffic modelling of the Silver Pines/Brewery Road Junction is operating within capacity during peak hour traffic conditions without the proposed development in place. A TII traffic counter on the N31 Brewery Road was utilised for data and shows that over the past number of years traffic flows along Brewery Road have not grown with a slight decline overall indicated (I refer to table 13.1 in the EIAR). In terms of future traffic growth rates, TII traffic projections for the period 2016 – 2030 were utilised to influence assumptions made in relation to traffic growth, where the policy is to reduce car dependency, particularly at locations well served by public transport, with future background traffic growth at the subject site predicted to be low or static due to the established urban setting, the provision of bus, rail, and existing and planned improvements in the cycling and pedestrian environment. The low level of parking proposed also contributed to the assumptions in relation to traffic generation. While I note concerns raised in observations about traffic growth and level of parking provided, on the basis of the information submitted in the EIAR as well as national and development plan policy in relation to parking, I am satisfied that the assumptions made are based on existing policies and available data from TII, and are reasonable and robust.
- 13.13.5. During the operational phase, TRICS was used to determine trip generation and PICADY used for modelling the proposed left in left out access junction onto Leopardstown Road with the development in place. The Picady analysis indicated the approach arms of the proposed access junction will operate at or below 10% capacity with the peak hour development traffic in place. a LinSig (signalised junction) capacity assessment of the existing Silverpines / Brewery Road (N31) junction. The LinSig model results for the junction showed that by even applying robust traffic generation figures, the junction had ample capacity during peak

weekday periods with the proposed development in place (I refer the Board to section 11.11 above and the submitted Traffic and Transport Assessment).

13.13.6. Construction phase impacts have been considered with regard to impact of construction traffic, volume of workers and traffic generation, and likely numbers of heavy goods vehicles and volume of materials to be transported. Mitigation measures include standard best practice measures, which are to be implemented through the Construction Environmental Management Plan (CEMP) and a Construction Traffic Management Plan (CTMP). Such measures include (inter alia) that all construction workers will be encouraged to use public transport, and also to car share where appropriate; on site staff car parking can also be provided to ensure no construction workers will be required to park on adjacent roads or streets; deliveries will be co-ordinated to prevent queuing of vehicles and will be timed and coordinated to avoid conflict with collection of waste, other deliveries (particularly to adjoining owners), and rush hour traffic; large deliveries will be scheduled outside peak traffic hours to minimise disruption; and footpaths will not be blocked resulting in pedestrians having to step onto the carriageway. It is stated that construction traffic will access the site from Leopardstown Road with no construction traffic allowed to use the Silver Pines Residential Estate. I consider this appropriate and important for reasons of safety and avoidance of conflicts on existing residential streets into Silver Pines. It is stated that the volume of construction traffic estimated to be generated during peak traffic hours is lower than the peak volumes projected for the operational phase of the development.

13.13.7. Operational phase impacts are determined to have a slight long-term adverse effect on the adjoining road network. It is considered that the adjoining road network can readily accommodate the additional traffic from the proposed development. A Mobility Management Plan is proposed as mitigation during the operational phase to promote sustainable modes of transport and reduce vehicular trip generation from the site, and a stage 2 and 3 RSA will be required. Footpaths and cycle paths are provided with permeability across the site and to the existing greenway route to the north which connects to an existing park and to the luas stop.

13.13.8. While I acknowledge concerns raised in submissions in relation to additional road traffic and have had regard to existing peak time congestion issues raised, I consider the increase of traffic at the junctions indicated to be within reason and the

street network has the capacity to accommodate the projected increase in traffic. I note the scheme has been designed to support active modes of transport of walking/cycling and the layout supports permeability across the site. A shift toward active modes of transport (walking/cycling), in conjunction with the mobility management plan will ensure that the proposed development can be accommodated with the proposed network. The street network has a finite capacity, therefore in order to maximise the use of land, which is a finite resource, a significant shift toward public transport and active modes of transport are required to support the sustainable development of this area and all areas of the city, which are well serviced by public transport and proximate to significant employment, as well as other retail and amenity services. With regard to the parking levels proposed (I refer the Board also to section 11.11 above), I note future occupants of apartments will be aware of the limitations of parking spaces at this location and it will be a case of the buyer choosing to live at this location with these parking limitations.

13.13.9. Cumulative impacts are considered and no significant impacts are identified.

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

#### **13.14. Material Assets - Utilities**

13.14.1. Chapter 14 of the EIAR evaluates the impacts on material assets required to facilitate the development, including surface water drainage, foul water drainage, and water supply. Concerns are raised in submissions in relation to the capacity of the water and foul drainage systems. Irish Water, who are responsible for these assets, has made a submission. No issues with capacity have been raised. The following works requirements are noted and the development will be subject to a connection agreement with Irish Water, which will address same:

- Connection for the proposed development is feasible subject to flows from the entire development site being limited to 5l/s and the delivery of an Irish Water project to augment the bifurcation of sewers at the Leopardstown Road and an existing Irish

Water storage tank at Burton Hall Road. This upgrade project is currently ongoing and is scheduled to be completed by 2023 (this may be subject to change). Work on these assets will be in the public domain.

- Provision for a gravity bypass should be included in the developments pumped solution design, which will need to be decommissioned at a future date. The developments pumping station will be the responsibility of the developer to operate, maintain and decommission. The details of the pumping station, operational requirements and bypass will be subject to any future Connection Agreement for the development.

#### Surface Water Drainage

13.14.2. Surface water from the proposed development area currently discharges to the existing public network to the north of the site and along Leopardstown Road.

13.14.3. The proposed surface water will be attenuated on site and discharge at greenfield run off rates. SUDS is incorporated within the design.

13.14.4. Potential impacts in terms of surface water drainage are described for the construction and operational phases. Mitigation measures are proposed for the construction phase as detailed in section 14.9 of the EIAR, including provisions for on-site settlement ponds for any surface water run-off; should groundwater be encountered, dewatering by pumping to an appropriate treatment facility prior to discharge will be undertaken; and all new sewers should be laid in accordance with Irish Water standards, pressure tested, and CCTV surveyed to ascertain any possible defects. For the operational phase, reference is made to chapter 8 water. Mitigation measures include design elements associated with SuDS and use of petrol interceptors. The impact following the construction stage mitigation measures outlined above is not significant. No adverse impact following the operation phase mitigation measures is indicated.

#### Foul Sewers

13.14.5. It is proposed to provide one connection into the public sewer network in the Silver Pines Estate. The foul effluent produced by the site will fall by gravity to the proposed foul Wastewater Pumping Station, from there it will be pumped to a new rising main discharge manhole which will be constructed on-line with the existing

manhole on Silver Pines road. The foul water ultimately discharges to the Ringsend WWTP via the West Pier pumping station in Dun Laoghaire.

- 13.14.6. Potential impacts are described for the construction and operational phases. Mitigation measures are proposed for the construction phase as detailed in section 14.9 of the EIAR and includes provision for the construction compound to include adequate staff welfare facilities including foul drainage and potable water supply, with foul drainage discharge to be removed off site to a licensed facility until a connection to the public foul drainage network has been established. No mitigation measures at operational stage are required. It is stated that 'all new drainage lines (foul and surface water) will be pressure tested and will be subject to a CCTV survey to identify any possible defects prior to being made operational'.

#### Water Supply

- 13.14.7. The potential impacts of development in terms of water supply are indicated for the construction and operational phases and mitigation measures are indicated. During the operational phase water conservation methods such as the use of low flush toilets and low flow taps are incorporated in the design of the units, which would reduce the demand on the public water supply network and the loading on the foul sewer network. No significant negative impacts are identified.

#### Conclusion on Material Assets – Utilities

- 13.14.8. Cumulative impacts have been considered and no significant impacts have been identified.
- 13.14.9. I have considered all of the written submissions made in relation to Material Assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

### **13.15. Material Assets - Waste Management**

- 13.15.1. Chapter 15 of the EIAR addresses waste management and potential impacts at construction and operational phases.

- 13.15.2. Mitigation measures are proposed to minimise the effect of the proposed development on the environment, to promote efficient waste segregation and to reduce the quantity of waste requiring disposal. A site-specific Construction and Demolition Waste Management Plan (C&D WMP) has been prepared to deal with waste generation during the demolition, excavation and construction phases of the project and it is stated that mitigation will require that this plan is refined/updated to detail specific measures to minimise waste segregation and resource consumption, and provide details of waste contractors and destinations of each waste stream.
- 13.15.3. An Operational Waste Management Plan (OWMP) has also been prepared as mitigation for the operational phase of the development. The predicted effect of the construction phase on the environment is determined to be short-term, imperceptible and neutral. The predicted effect of the operational phase on the environment will be long-term, imperceptible and neutral. The residual impact is stated to be neutral and imperceptible.
- 13.15.4. I have considered all of the written submissions made in relation to Material Assets – Waste Management. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on waste management.

### **13.16. Archaeological and Cultural Heritage**

- 13.16.1. Chapter 16 of the EIAR addresses archaeology and cultural heritage.
- 13.16.2. A desktop study and field inspection were carried out as part of the assessment of the site.
- 13.16.3. Potential impacts relating to the construction stage and operational stages in terms of archaeology and cultural heritage are identified. Most impacts during demolition phase are likely to be direct impacts as a result of sub-surface disturbance or construction works. Construction will involve removal of topsoil and there is a possibility of encountering the original townland boundary between Tipperstown and Galloping Green South. In addition surviving sub-surface masonry remains associated with the foundation of the Children's Sunshine Home may be encountered during the works. No impacts are identified during the operation

phase. Mitigation measures of monitoring groundworks are proposed. A submission from the Department of Housing, Local Government and Heritage states the National Monuments Service (NMS) of the Department agrees with the recommendations outlined in the report and conditions are recommended in relation to excavation and archaeological monitoring. The residual impact significance is rated as Negligible.

13.16.4. In terms of cumulative impacts and residual impacts, none are identified.

13.16.5. I have considered all of the written submissions made in relation to archaeology and cultural heritage. I am satisfied that mitigation by condition would be appropriate if any material is found during construction works and any impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts on archaeology or cultural heritage.

### **13.17. Architectural Built Heritage**

13.17.1. Chapter 18 of the EIAR addresses architectural built heritage. The methodology is set out and the assessment includes Protected Structures, the neighbouring Arkle Square Architectural Conservation Area, and significant views within the area.

13.17.2. There is one Protected Structure (PS 1548) within the study area, Saint Joseph's House (CH001), which is located in the northern extent of the application site. The curtilage of the Protected Structure is limited to the footprint of the Protected Structure itself, and the immediate front (north) setting of the structure. The area is delineated by an existing line of mature trees to the east, by the original site boundary to the north, and by the building line of modern encroaching development to the south and west. Details in relation to the structure itself are set out within Chapter 18 of the EIAR. The architectural significance of the building is indicated to be largely based on its external appearance. Saint Joseph's House is also of historic interest as an example of a nineteenth-century building constructed in the spirit of non-sectarian charitable altruism in favour of the less fortunate in society of the time. The nineteenth-century rural setting to the original building has been lost with modern suburban development in the immediate area of the house.



13.17.3. None of the ten houses (dated from late 20<sup>th</sup> century) proposed for demolition as part of the development are considered to have any architectural or historical significance.

13.17.4. Arkle Square Architectural Conservation Area (2014), is located to the south west of the subject site and comprises a series of terraced two-storey, houses facing onto a small square. The building group was originally known as Sheils Institution and included 24 Almshouses built in c.1868 by the Charles Sheils Almshouses Charity for Poor and Deserving People to designs of Charles Lanyon.

13.17.5. Potential impacts of the proposed development with regard to St. Joseph's and Arkle Square, are considered for both the construction and operational phases. Photomontages have been submitted as part of the assessment of the visual impact.

13.17.6. The following mitigation measures in terms of the construction phase are proposed:

- Works to St. Josephs: The proposed works in the subject application will not have any impact on the character, significance or fabric of the Protected Structure and will involve modern fabric only. The proposed works are necessary to improve the residential amenity and architectural quality of the development. The proposed works are minor in nature and will have no impact on the character of the Protected Structure. Proposed conservation works will be carried out in accordance with the Outline Conservation Specification. A suitably qualified conservation architect will be appointed to oversee the proposed works to St. Joseph's House (a Protected Structure). Structural engineers will be appointed to ensure that the excavation and building works have no structural impact on the Protected Structure and to advise on necessary measures to protect the historic structure. Vibration monitors will be installed at ground floor level of St. Joseph's House to ensure vibrations from the excavation and construction works do not exceed 3mm/s. These monitors will be installed prior to any works commencing.
- Setting of St. Joseph's: The siting of the new blocks at a distance from the Protected Structure, the landscape design and use of trees as visual screening and the stepping down in height of the various blocks mitigate the potential visual impact of the proposed scheme on the character of the setting

of the Protected Structure. The pumping station to the front of St. Joseph's is 19m from the Protected Structure and will be below ground with minimal above ground presence, therefore it will not affect the setting of the protected structure.

- Structural engineers will be appointed to ensure that the excavation and building works have no structural impact on the Protected Structure and to advise on necessary measures to protect the historic structure. Vibration monitors will be installed at ground floor level of St. Joseph's House to ensure vibrations from the excavation and construction works do not exceed 3mm/s. These monitors will be installed prior to any works commencing.
- Photomontage views have been prepared and it is considered that the development will not detract from the architectural significance of the Protected Structure, and will have a positive impact on the character of the setting of St. Joseph's.
- Photomontage views have been prepared with regard to Arkle Square. There will be no physical impact on the Arkle Square ACA at all with the proposed new blocks located some distance to the north east of Arkle Square beyond the existing house 'Sir Ivor Mall'. The visual impact of the proposed development was considered during the early design stages of the proposed scheme, and these considerations guided design decisions. The siting of the new blocks at a distance from the ACA and the stepping down in height of the various blocks mitigate the potential visual impact of the proposed scheme on the character of the ACA.

13.17.7. In terms of cumulative impacts, none are identified.

13.17.8. I have considered all of the written submissions made in relation to architectural heritage. Many of the observer submissions have raised concerns with regards the impacts of the proposal on the architectural heritage of Arkle Square and the on the character and setting of the Protected Structure St. Joseph's. I note that the planning authority do not recommend a refusal of permission in relation to this matter. In terms of impacts on the Protected Structure on site, I am of the opinion that a sensitive approach has been taken to its renovation and re-use. I am satisfied that the identified impacts would be avoided, managed and mitigated by the

measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts on architectural heritage.

### **13.18. Daylight and Sunlight**

13.18.1. Chapter 12 relates to daylight and sunlight and sets out the methodology utilised. A report titled 'Assessment of Sunlight and Daylight Access within the Proposed Development' (August 2021) has been submitted with the application.

13.18.2. The methodology applied, the existing receiving environment, and characteristics of the proposed development are set out. The Board is referred to my planning assessment under section 11.8 and 11.9 above for further detailed assessment on this topic and in terms of addressing observer submissions.

13.18.3. I have considered all of the written submissions made in relation to daylight/sunlight. I am satisfied that there will not be significant impact on nearby properties and am generally satisfied that the design results in sufficient daylight and sunlight for future residents. My concerns relating to sunlight to some dwellings are noted and detailed above under Section 11.9 of this report. These are planning concerns, as opposed to environmental concerns. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect daylight/sunlight impacts.

13.18.4. No cumulative impacts are predicted.

### **13.19. Landscape and Visual Impact Assessment**

13.19.1. Chapter 12 of the EIAR addresses Landscape and Visual Impact. The EIAR notes the policy context and existing visual character. The applicant has submitted photomontages of the development from various viewpoints. I refer the Board to section 11.6 of my report also.

13.19.2. The evolving context of the area is set out, with a description of the development in the 20<sup>th</sup> century of low density suburban housing developments proximate to the site alongside development of Sandyford Industrial Estate west of

the Leopardstown Junction, followed in the 21<sup>st</sup> century with the development of the Luas and higher density developments of the South County Business Park and Central Park (southwest of the site) and the continuing redevelopment of Sandyford Industrial Estate into a mixed use urban district. The area is stated to be of mixed character and in a state of transition/modernisation, and comprises wide variations in all key aspects of townscape character, including the land use mix, urban grain, plot and building typologies, scale and architecture.

13.19.3. A number of sensitive visual receptors are identified for examination, including St. Joseph's House, Arkle Square ACA, Silver Pines, Anne Sullivan Centre for people who are deafblind, The Chase/Ballymoss Parade/Sir Ivor Terrace, and the estate of Leopardstown Lawn to the north. Regard is also had to the Laura Lynn Hospice located on the opposite side of the Leopardstown Road.

13.19.4. The predicted visual impact during the construction phase is examined and during the operational phase. It is stated that the predicted impact during construction negative at first, and the magnitude of change would range from high in the immediate environs to negligible or none further from the site.

13.19.5. With regard to the operational phase, it is stated that the townscape can be categorised as of medium sensitivity and the magnitude of change as medium. The significance of the effects is considered to be moderate. While the proposal will affect the character of the area, it is considered that it is consistent with existing and emerging policies for the area and with baseline trends (permission previously granted for 5 storey development on part of the site) and it is stated the effects can be classified as positive. It is acknowledged that significant negative visual effects on the adjacent residential neighbourhood (particularly the Arkle Square ACA) may arise with insertion of higher development into the low rise low density character of this immediate area, but in this instance such impacts are minimised, as assessed under Section 12.6 of the EIAR, having regard to the viewpoints selected (discussed hereunder). The overall townscape effects are considered appropriate and positive.

13.19.6. I note 18 viewpoints are assessed against the photomontages submitted (see table 12.7, under s. 12.6 of the EIAR) and rated in terms of significance of effects. I note in particular the following views and effects:

- View, 1, 2, 3, and 4 – Views related to Leopardstown Road rated from Slight Positive to Significant Positive. I note the assessment relating to the interface of Block F and dwellings at Sir Ivor Mall, where it is overall considered that while there will be an obvious transition in typology and scale, it is considered that such a juxtaposition in typology, scale and architecture is not unusual, nor undesirable. The change would be notable but not inappropriate, and overall the visual amenity of the road corridor would be improved. It is stated there would be a significant positive effect.
- View 9, Leopardstown Park – Moderate positive impacts from Block A, B and C.
- View 10, Leopardstown Lawn at Leopardstown Drive Junction - A row of 12 no. houses to the north of the site beyond the greenway, back onto the greenway and present their rear facades towards the site. Blocks B and C (both seven storeys) would protrude above the tree line, some 40m to the rear of the houses (and buffered by the retained trees inside the site boundary and along the greenway), presenting their narrow elevations towards the houses – thus avoiding a substantial increase in visual enclosure. The composition and character of the view would be changed, but in the context the change would not be inappropriate. The effect is considered to be moderate neutral.
- View 12, The Chase/Sheils Houses Estate Road - The 3 storey Block F would protrude above the roofline of the houses at the end of the street, presenting its narrow northern façade. This constitutes a low magnitude of change, and such compositions are not unusual in the urban context. There would be no negative impact on visual amenity. The significance of effect is considered Slight Neutral.
- View 13, Sir Ivor Mall adjacent to Arkle Square - While Block F would be prominent in views from the rear of the Sir Ivor Mall houses, the enclosure would not be excessive. The proposal is supported by national policy (the Building Height Guidelines require that building heights of ‘at least three to four storeys, coupled with appropriate density’ be achieved even in suburban locations – and this location is not suburban; it is close to the core of an evolving urban district). While the composition and character of the view would change, such change is unavoidable and not inappropriate in the townscape and policy context, and can be classified as neutral. Additionally, the trees proposed inside the boundary would in time mature to soften

the development's presence in the views. The significance of effect is considered Moderate-Significant-Neutral.

- View 14 and 15, St. Josephs - St Joseph's would remain legible against the changed backdrop. The development would enhance the protected structure itself and add visual interest to the composition, resulting in a net gain in visual amenity. The photomontage shows that one Austrian pine tree is required to be removed to facilitate the development. This would constitute a loss from the landscape, but other improvements in the view would compensate for this loss. The significance of effect is considered Significant Positive.
- View 16, 17 and 18, Arkle Square – No effect.

13.19.7. I note the content of this visual impact assessment and am satisfied the issue has been adequately assessed. I note observer submissions consider that the lack of a view from the Anne Sullivan Centre is a serious omission from the development. While I note a view was not taken from this perspective, the LVIA does recognise the Anne Sullivan Centre is a sensitive receptor in its assessment, and considers this centre and other residential areas to the west feel somewhat removed from the surrounding urban area, enjoying a high level of landscape and visual amenity derived from the historic architecture and numerous mature trees, with the tree impacts plan including trees to be retained along this boundary. I have considered this centre further in the planning assessment above (see sections 11.6 and 11.9 of this report above) and note 3D views have been submitted which include it. I consider I have sufficient information within the EIAR and accompanying documents with this application to undertake a comprehensive visual impact assessment of the site.

13.19.8. No specific construction stage mitigation is proposed. At operational stage, no mitigation measures are proposed other than those incorporated within the design which led to the overall conclusion that the effects on all receptors are neutral or positive, ie: the retention, refurbishment and reuse of St Joseph's House as an integral part of the development; the retention of the key groups of trees on the site; the considered arrangement of built form and height along Leopardstown Road, along with the steps in height, folded elevations, variations in façade design and materials and the high degree of articulation; the landscape treatment of the

Leopardstown Road streetscape; the reduction in scale of Block F to 3 and 6 storeys as part of this application (reduced from original concept of 3-8 storeys).

13.19.9. Cumulative impacts have been considered, included permitted and ongoing development in the One South County Business Park to the southwest/at Leopardstown Junction, development of the Central Park quarter and ongoing redevelopment of sites in the Stillorgan area. It is stated that at the macro level their cumulative effect will establish an extensive, diverse, high density mixed use urban district. It is considered that the proposed development will sit comfortably in this context and contribute positively to the evolving character. At the local level there are no known proposed or permitted developments with which the proposed development would interact causing townscape or visual effects of greater significance than those identified in the LVIA.

13.19.10. I have considered all of the written submissions made in relation to landscape and visual impact. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the landscape or on visual impact.

### 13.20. Wind and Microclimate

13.20.1. Chapter 11 of the submitted EIAR addresses wind and microclimate.

13.20.2. The criteria of Lawson's Wind Comfort and Distress have been adopted to define if a specific area of the development could be comfortable and safe to pedestrians for its designated activity (i.e. standing/walking/strolling). The submitted assessment states wind flow speeds at ground floor are within tenable conditions. Some higher velocity indicating minor funnelling effects are found near the South-West side of the development between Blocks D and F, however, the Lawson map indicates the area is suitable for short term sitting instead of long term sitting. It is stated that these conditions are not occurring at a frequency that would compromise the pedestrian comfort, according to the Lawson Criteria with mitigation of landscaping forming part of the design. The terrace on Block C is suitable for every activity, including long-term sitting. On the roof terrace on Block D, there is a small area that is suitable for short-term sitting instead of long-term sitting. Higher

velocities can be found for some balconies exposed to south and south-west wind directions, however, these velocities are below the threshold values defined by the acceptance criteria and therefore are not critical for safety. The wind modelling results show the proposed development will introduce no negative wind effect on adjacent and nearby developments. In terms of mitigation, tree planting all around the development has been utilised, with particular attention to the corners of the Blocks, to mitigate any critical wind effects. The report concludes ground floor good shielding is achieved everywhere.

13.20.3. I have reviewed the results as submitted and am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the environment in terms of wind impact.

### **13.21. Significant Interactions**

13.21.1. Chapter 20 of the EIAR sets out potential significant interactions between each of the disciplines and includes a matrix of these potential interactions. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

13.21.2. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

### **13.22. Reasoned Conclusion on the Significant Effects**

13.22.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant



direct and indirect effects of the proposed development on the environment are as follows:

- **Population:** A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- **Biodiversity Impacts:** Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, protection of trees to be retained, landscaping and planting of new trees, measures in relation to bats and birds and use of bat and bird boxes. The proposed development would not have a significant negative impact on biodiversity.
- **Landscape and Visual Impacts:** There will be changed views from various locations given the change from a largely low density low rise infill site to a high density residential development. The lands are zoned for residential development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be mitigated by the design, retention of specified trees and hedgerows, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.
- **Traffic and Transport:** Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of implementation of the Mobility Management Strategy for the development.
- **Water:** Potential impacts on water, which are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- **Air Quality and Climate:** Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- **Noise and Vibration:** Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed and I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

## 14.0 Recommendation

I recommend that permission is granted, subject to conditions.

## 15.0 Reasons and Considerations

Having regard to the following:

- (a) The policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022,
- (b) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All – A New Housing Plan for Ireland, 2021,
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) The Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,

- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) The nature, scale and design of the proposed development,
- (j) The availability in the area of a range of social, community and transport infrastructure,
- (k) The pattern of existing and permitted development in the area,
- (l) The planning history of the site and within the area,
- (m) The submissions and observations received, and
- (n) The report of the Chief Executive of Dun Laoghaire Rathdown County Council,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 16.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 30th day of September 2021 by Brock McClure Planning and Development Consultants on behalf of Homeland Silverpines Limited.

### Proposed Development

The proposed development provides for the demolition of 10 no. properties and associated outbuildings at 'Madona House' (single storey), 'Woodleigh' (2 storeys), 'Cloonagh' (2 storeys), 'Souk El Raab (2 storeys), 'Wellbrook' (2 storeys), 'Calador' (2 storeys), 'Alhambra' (2 storeys), 'Dalwhinnie' (2 storeys), 'Annaghkeen' (1-2 storeys) and 'The Crossing' (single storey) (combined demolition approx. 2,291.3 sq m GFA). The new development will provide for (a) the refurbishment, internal separation and material change of use of Saint Joseph's House (a Protected Structure, RPS No. 1548) from former residential care facility to residential use and a childcare facility; and (b) the construction of a new build element to provide for an overall total of 463 no. residential units, residential amenity space and a café.

The overall development proposal shall provide for the following:

- Block A (5 storeys) comprising 49 no. apartments (13 no. 1 bed units, 33 no. 2 bed units and 3 no. 3 bed units);
- Block B (4 - 7 storeys) comprising 88 no. apartments (28 no. 1 bed units, 57 no. 2 bed units and 3 no. 3 bed units);
- Block C (5 - 7 storeys) comprising 115 no. apartments (26 no. studio units, 26 no. 1 bed units and 57 no. 2 bed units and 6 no. 3 bed units);
- Block D (5 - 10 storeys) comprising 157 no. apartments (36 no. studio unit, 40 no. 1 bed units and 81 no. 2 bed units), residential amenity areas of approx. 636 sq m and a café of approx. 49 sq m;
- Block E (Saint Joseph's House) (2 storeys) comprising 9 no. apartments (8 no. 2 bed units and 1 no. 3 bed units) and a childcare facility of 282 sq m with associated outdoor play areas of approx. 130 sq m;
- Block F (3 - 6 storeys) comprising 45 no. apartments (23 no. studio units, 10 no. 1 bed units; and 12 no. 2 bed units);

Each new build residential unit (in Blocks A, B, C, D and F) has an associated area of private open space in the form of a terrace/balcony. Open Space proposals for Saint Joseph's House (Block E) include a mixture of private terrace/balcony areas and communal open space areas.

The extent of works proposed to Saint Joseph's House (a Protected Structure) include:

- The demolition of a single storey office, conservatory, glazed link, external store, external enclosed escape stairs with associated canopies, toilet extension and 3 no. associated outbuildings to the west of Saint Joseph's House (demolition total approx. 173.4 sq m GFA);
- The removal of external steel gates, all external steel escape stairs, canopies, existing disabled access ramps, concrete steps, an external wall and associated roof area;
- Relocation of external granite steps and the provision of a new raised entrance terrace, concrete steps and ramp areas;
- Replacement of existing rooflights, the addition of roof lights, part new roof / new zinc roof, new external wall and roof to the east of the structure;
- The provision of new door and window openings;
- Modifications to internal layout including the removal of walls and partitions and the addition of new dividing walls.

The Residential Amenity Areas of approx. 636 sq m proposed in Block D comprise a residential club house/multi purpose room, library/reading room, lounge area, concierge area, office area, post room, fitness club, all at ground floor level of Block D. A terrace lounge area is proposed at fifth floor level of Block D. 2 no. roof garden areas are also proposed at fifth floor level of Blocks C and D (approx. 400 sq m and 408 sq m respectively).

Open Space (approx. 9,885 sq m) is proposed in the form of (a) public open space areas (approx. 6,680 sq m) which include a public plaza/court area, a main area of public open space (including a play area and outdoor gym area) and woodland trail; and (b) all communal open space areas (approx. 3,205 sq m) which include areas adjacent to Saint Joseph's House (Block E), Block D and Block F, a courtyard and play area located between Blocks A and B and roof terraces at fifth floor level of Blocks C and D. Visual amenity open space areas (approx. 1,000 sq m) are also proposed at various locations throughout the development.

Basement Level (approx. 9,445 sq m) is proposed with residential access from Blocks A, B, C, D and F. Bin storage areas, water storage areas, and part attenuation are located at this level. 2 no. ESB Substations, 1 no. ESB Kiosk, 2 no.

Switch Rooms, waste storage areas for Block E (Saint Joseph's House) and bicycle storage areas are proposed at surface level.

A total of 259 no. car parking spaces (232 no. at basement level and 27 no. at surface level) are proposed. At basement level, a total of 30 no. electric vehicles and 202 no. standard parking spaces are provided for. A total of 968 no. bicycle spaces (816 no. at basement level and 152 no. at surface level), dedicated cycle lift and 10 no. motorcycle spaces (all at basement level) are also proposed.

Proposals for vehicular access comprise 1 no. existing vehicular access point via Silver Pines (an existing all movement junction onto Brewery Road) and 1 no. new vehicular access point at the general location of 'Annaghkeen' at Leopardstown Road (a new Left In / Left Out junction arrangement). The new access point along Leopardstown Road will replace 9 no. existing access points at 'Woodleigh', 'Cloonagh', 'Souk El Raab', 'Wellbrook', 'Calador', 'Alhambra', 'Dalwhinnie', 'Annaghkeen' and 'The Crossing'. The internal permeability proposed will provide linkages for pedestrians and cyclists to Leopardstown Road and adjoining Greenway. Proposals also provide for the relocation of an existing bus stop along Leopardstown Road.

The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; waste water pumping station; attenuation proposals; permeable paving; all landscaping works including tree protection, tree removal and new tree planting; green roofs; boundary treatment; internal roads and footpaths; and electrical services.

## **Decision**

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

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was

required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

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

- (a) The policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022,
- (b) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All – A New Housing Plan for Ireland, 2021,
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) The Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) The nature, scale and design of the proposed development,

- (j) The availability in the area of a range of social, community and transport infrastructure,
- (k) The pattern of existing and permitted development in the area,
- (l) The planning history of the site and within the area,
- (m) The submissions and observations received,
- (n) The report of the Chief Executive of Dun Laoghaire Rathdown County Council, and
- (o) The report of the Inspector

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;



- (c) The reports and submissions received from observers and prescribed bodies;
- (d) The Inspector's report;

The Board agreed with the summary of the results of consultations and information received in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's Report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

### **Reasoned Conclusions on the Significant Effects:**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation embedded in the project design and delivery for the construction stage. In addition, plans relating to Waste Management and Traffic Management are also proposed. The main significant effects, both positive and negative are:

- Population: A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- Biodiversity Impacts: Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, protection of trees to be

retained, landscaping and planting of new trees, measures in relation to bats and birds and use of bat and bird boxes. The proposed development would not have a significant negative impact on biodiversity.

- **Landscape and Visual Impacts:** There will be changed views from various locations given the change from a largely low density low rise infill site to a high density residential development. The lands are zoned for residential development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be mitigated by the design, retention of specified trees, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.
- **Traffic and Transport:** Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of implementation of the Mobility Management Strategy for the development.
- **Water:** Potential impacts on water, which are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- **Air Quality and Climate:** Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- **Noise and Vibration:** Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and

convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dun Laoghaire Rathdown County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board 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 plan with respect to building height limits. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- With regard to S37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application site has the potential to contribute to the city's delivery of compact urban growth and to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.
- With regard to S.37(2)(b)(iii), the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35 and is in compliance with the Section 28 guidance Urban Development and Building Height Guidelines 2018, in particular SPPR3.

## 17.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.
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	<p>Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Mitigation and monitoring measures outlined in the plans and particulars submitted with this application, including in the Environmental Impact Assessment Report, as set out in Chapter 21 of the EIAR ‘Summary of Mitigation Measures’, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>Prior to commencement of any works on site, revised details shall be submitted with regard to the following:</p> <ol style="list-style-type: none"> <li>a. The four storey section of Block B, which comprises apartment no.s 8, 9, 21, 22, 34, 35, 47 and 48, shall be omitted and revised plans submitted accordingly. The remaining area shall be incorporated as open space.</li> <li>b. The eight and ninth floor levels of Block D, as per drawing no. BP2-OMP-BD-ZZ-DR-A-1004 shall be omitted and revised plans submitted accordingly.</li> <li>c. The internal full height partition screen within the studio units in Blocks C and D shall be omitted and any replacement screen arrangement shall allow for natural light and ventilation across the combined living/sleeping area.</li> <li>d. The northeastern end of Block F closest to the boundary with no. 25 Silver Pines shall be amended to omit the end apartment units</li> </ol>

of no. 12, no. 24 and no.36. The remaining area shall be incorporated as open space.

- e. The studio units in Block F, which have been designed with bedrooms separated from the living area by way of walls and sliding doors, shall be redesigned to comprise a combined living/sleeping area and shall meet the minimum floor area for studio units, as set out in the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020. Revised floor plans shall be submitted accordingly and shall take account of point c above.
- f. An amendment to the depth and length of the terraces and balconies along the southeast façade of Block F to ensure no element of the building or balconies associated with Block F encroach on the 2.5m wide public footpath at the southwest corner of the block adjoining Leopardstown Road.
- g. The external stair core serving Block F shall be amended to include windows on one of its elevations.
- h. The type 5 boundary, which comprises an existing low blockwork wall with a proposed fixed timber fence panel on top with overall height of 1.8m, shall be amended to comprise a blockwork or similar finish on top of the existing blockwork wall, or an entire replacement blockwork wall if required, to a height of 1.8m, unless otherwise agreed in writing with the planning authority.
- i. Ground level apartment floor to ceiling heights shall be a minimum of 2.7m across Blocks A, B, C, D and F, as required under Specific Planning Policy Requirement 5 of the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020.
- j. Additional details of privacy measures between balconies/terraces and between areas of private/communal open space

- k. A pedestrian path shall be provided from the Silver Pines access connecting into the existing path along the northern boundary of the site and a pedestrian path shall be provided from the Silver Pines access to the existing, or alternatively agreed, pedestrian access point into the Anne Sullivan Centre. Pedestrian crossing points, as required, shall be facilitated across the access route to ensure safe movement of those from the Anne Sullivan Centre and from St. Josephs to the northern greenway route, north of the application site boundary.
- l. The bin stores located to the west of the childcare facility in St. Josephs shall be relocated away from the pedestrian entrance to the Anne Sullivan Centre.
- m. The proposed 2m rendered blockwork wall to the south of St. Josephs, adjoining the location of the creche and extending west of the building, shall be replaced with a new hedgerow embedded within a mesh fence, or alternative to be agreed with the planning authority.
- n. The gates within the 1.8m high boundary railing to the northeastern boundary with the existing greenway shall be omitted and the two pedestrian access points from the site onto the greenway and all other access points to the site shall be permanently made available for unimpeded public access at all times and shall remain permanently accessible.
- o. The location of the ESB kiosk at the vehicular entrance on the Leopardstown Road and the adjoining 62sqm waste collection area shall be repositioned where feasible to within the scheme and the 3m high wall at the western gable end of Block C bounding the waste collection area shall be reduced in height to facilitate light into the ground level apartments.

	<p>p. Full details of boundary wall and fence adjoining the area of the childcare facility, to its associated play area and along the southern boundary of St. Josephs.</p> <p>q. Full details of privacy screens between balconies of the apartments.</p> <p>r. Full details of green roofs to the apartment buildings, bin and bike stores.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and 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.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
4.	<p>All works to St Josephs, a Protected Structure shall be carried out under the supervision of a conservation architect.</p> <p><b>Reason:</b> In order to safeguard the special architectural or historical interest of the building.</p>
5.	<p>The carrying out of the development shall be phased and, before any part of the development commences, (or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing), a development programme, including inter alia a detailed comprehensive site layout, showing all proposed phases with the redevelopment of St. Josephs included as Phase 1 and completed prior to the occupation of Blocks A-F, shall be submitted to and agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interests of orderly development and the proper planning and sustainable development of the area.</p>
6.	<p>Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning</p>

	<p>authority that a childcare facility is not needed (at this time).</p> <p><b>Reason:</b> To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.</p>
7.	<p>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/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
8.	<p>No additional development shall take place above roof parapet level of the shared accommodation buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.</p>
9.	<p>Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
10.	<p>(a) Details of the proposed signage to the childcare facility to be submitted prior to occupation for the written agreement of the planning authority.</p> <p>(b) The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of</p>



	<p>the development and the wider community on a first come first served basis.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
11.	<p>Details of the external shopfront to the café, lighting, signage and internal security shuttering shall be as submitted to, and agreed in writing with, the relevant planning authority prior to-occupation of the unit. No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> In the interest of the amenities of the area/visual amenity.</p>
12.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation. The lighting scheme for the proposed development shall be designed in accordance with guidance contained in Institution of Lighting Professionals (ILP). (2018). Guidance Note 08/18: Bats and artificial lighting in the UK, and signed off on by a bat specialist before submission to the planning authority for its written agreement before the commencement of any works on site.</p> <p><b>Reason:</b> In the interest of public safety and visual amenity and to conserve bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC) by avoiding unnecessary light pollution..</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>

14.	<p>(a) Details of the bicycle parking space location, layout, access to the basement, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p>(b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.</p> <p><b>Reason:</b> To ensure that adequate bicycle parking provision is available to serve the proposed development, and in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.</p>
15.	<p>Revised drawings and details demonstrating that all items raised in the submitted Stage 1 Quality Audit (dated September 2021) have been adequately addressed shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
16.	<p>A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out at the Developers expense in accordance with the Design Manual for Urban Roads &amp; Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent audit team(s) shall be approved in writing by the Planning Authority and all measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>

17.	<p>The developer shall comply with all requirements of the planning authority in relation to all works to be carried out on the public road/footpath, and areas to be taken in charge. The internal street network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, vehicular entrances and basement car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Provision for cyclists shall comply with latest National Cycle Manual and Design Manual for Urban Roads Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Prior to commencement of development, full details of the proposed works to be carried out at the developer's expense at Leopardstown Road shall be submitted for the written agreement of the planning authority. Works shall include:</p> <ul style="list-style-type: none"> <li>(a) left in/left out only vehicular access at Leopardstown Road;</li> <li>(b) 2.5m width footpath along Leopardstown Road;</li> <li>(c) relocated Bus Stop and cycle path in accordance with the National Cycle Manual;</li> <li>(d) close off of other existing access points at Leopardstown Road Development frontage; and</li> <li>(f) bollards, road marking, signage and public lighting.</li> </ul> <p>In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
18.	<p>(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, with the exception of</p>

	<p>the car share spaces, unless the subject of a separate grant of planning permission.</p> <p>(b) Prior to the occupation of the development, a Car and Cycle Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed residential units and also to prevent inappropriate commuter parking.</p>
19.	<p>A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
20.	<p>Prior to the opening or occupation of the development, a detailed Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p>

	<p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
21.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
22.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
23.	<p>Prior to the commencement of development, the developer shall engage the services of a qualified arborist as an arboricultural consultant for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant prior to commencement of development. The consultant shall visit the site at minimum on a fortnightly basis to ensure the implementation of all of the recommendations in the tree reports and plans. The arborist shall include secondary tree protection fencing around all root protection areas of trees to be retained. All works within these areas shall be supervised at all times by the project arborist and the fencing can only be temporarily removed to undertake works under the supervision of the arborist. The arborist shall agree the exact location and detail of the secondary fencing in writing with the planning authority prior to the commencement of any permitted development. To ensure the protection of trees to be retained within the site, the developer shall</p>

	<p>implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted Arboricultural Report. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations (or as updated). The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st September and the end of February inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000. The arborist shall carry out a post construction tree survey on the condition of the retained trees. A completion certificate shall be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to Dún Laoghaire-Rathdown County Council’s Parks and Landscape Services for written agreement upon completion of the works. The developer shall also be made aware of their obligations to constantly assess and survey the trees after construction because of the potential impact and the age/condition of these trees as outlined in the tree survey.</p> <p><b>Reason:</b> To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.</p>
24.	<p>The erection of bird boxes in the proposed development and implementation of the measures set out in the supporting EIAR to avoid bird collisions shall be carried out as proposed in that document,</p> <p><b>Reason:</b> To conserve protected bird species.</p>
25.	<p>Bat boxes shall be erected as proposed in the EIA supporting this application, that trees to be felled will be surveyed for bats before their removal, and that the destruction of interference with any building containing a bat roost or of any tree identified as a bat roost shall only to be carried out on receipt from the NPWS of a licence to derogate from the Habitats Directive and destroy the roost.</p>

	<p><b>Reason:</b> To conserve bat species afforded a regime of strict protection under the Habitats (92/43/EEC).</p>
26.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> <li>(a) details in relation to the interface of site services and trees to be retained;</li> <li>(b) details in relation to public furniture/benches;</li> <li>(c) details in relation to layout and design of play facilities and equipment;</li> <li>(d) proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;</li> <li>(e) phasing plan for replacement planting of trees;</li> <li>(f) details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</li> </ul> <p><b>Reason:</b> In the interest of amenity, ecology and sustainable development.</p>
27.	<p>a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within</p>

	<p>stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) proposed to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site, unless by prior agreement with a specialist arborist.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity.</p>
28.	<p>Prior to the commencement of any development, the site shall be surveyed for frog spawn and tadpoles by an ecologist and if any spawn or tadpoles are identified they shall be translocated under licence from the NPWS to a substitute pond located to a safe section of the development site.</p> <p><b>Reason:</b> To prevent the destruction of the spawn and juvenile stages of a protected species, namely frog.</p>



29.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
30.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site to be retained and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are</p>

	<p>removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To secure the protection of the trees on the site.</p>
31.	<p>A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
32.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the</p>

	<p>site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
33.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
34.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
35.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
36.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act</p>

	<p>2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
37.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
38.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be</p>

	<p>agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
39.	<p>The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 from the Sandyford Depot to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

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Una O'Neill  
Senior Planning Inspector

10<sup>th</sup> January 2022