



An  
Bord  
Pleanála

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

## Inspector's Addendum 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**

Transport Infrastructure Ireland

**Observer(s)**

1. Ambre Bigeard
2. Angela Plunkett
3. Brian Burns BKC Solicitors John  
Conway and Louth  
Environmental Group
4. Bridie Bergin
5. Brownyn O'Farrell
6. Conal Myles
7. Conor Sheehan
8. David Simons
9. Elaine Byrne
10. Garrett O'Sullivan
11. Helena Daly
12. Jim and Judy Graham
13. Jim Halpenny
14. Joachim Braune
15. Laura Lynn – Bevan Ritchie
16. Laura Lynn – Kerry Laverty
17. Laura Lynn – Sarah  
O'Callaghan
18. Leopardstown Action Group –  
Adrienne O'Sullivan
19. Martin Lavelle, on behalf of  
Ronan Cooper, Bridie Bergin,  
Deirdre Byrne, Giles Smyth,  
Keara Masterson, and Aisling  
Whyte.
20. Paschal Bergin

21. Pat Browne
22. Ronan Cooper
23. Sean McNulty
24. Sean Smyth
25. Shane Cusack
26. Shikhar Mathur

**Date of Site Inspection**

23<sup>rd</sup> December 2021

**Date of Oral Hearing**

8<sup>th</sup> March 2022

**Inspector**

Una O'Neill

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## 1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the previous Inspector's report prepared in respect of the proposed strategic housing development ABP-311540-21, dated 10<sup>th</sup> January 2022.
- 1.2. Having regard to Section 18 of the Act, the Board decided that a limited agenda Oral Hearing should be held in relation to ABP-311540-21. Pursuant to Board Direction BD-009853-22 (dated 4<sup>th</sup> February 2022), an Oral Hearing was held on the 8<sup>th</sup> and 9<sup>th</sup> March 2022 based on the following directed limited agenda:

“(a) quality of residential amenity for future residents in particular the extent of overshadowing of the proposed internal open spaces and separation distances on site,

(b) overshadowing and potential overbearing of private amenity areas for existing residents,

(c) assessment of the visual impact of the proposed development from a wider number of view points and

(d) the proposed density, scale, height and design of the scheme, specifically to address access to quality public transport and the vision for the area, and roles played by this area and others in the vicinity as outlined below –

### **A). Quality of Residential Amenity & Open spaces within the scheme**

As identified in the documents submitted, and as further highlighted by the Planning Authority and third parties, there are a number of areas within the scheme where the amenity afforded the future residents may be less than ideal and may be improved by amendment. The applicant is requested to provide further elaboration or justification of the proposal in respect of these areas (as identified below), and to consider the suggested amendments –

1. Notwithstanding the exclusion of the area of communal open space 5 and visual amenity space 6 from the open space calculation, it has been stated that the quality of these spaces, including compliance with BRE Guideline targets for sunlighting of

amenity areas, could potentially be of a higher standard. In this regard consideration of the omission of upper floors of Block D or other amendments may assist, although it is acknowledged that the quality of the spaces and the scheme is based on balance. The applicant is requested to provide further justification and any relevant material or evidence as to the effectiveness of such an intervention/any intervention and associated impact on the design.

2. Further elaboration and justification in respect of separation distances between Blocks A and B and Blocks B and C, which may provide additional relief between the scale of the development proposed and consideration of the omission of the four storey section to the side of Block B in order to determine if it would improve the quality and functionality of this open space, to the benefit of the future residents of the apartments on either site (115 apartments in Block C and 88 apartments in Block B), as well as other residents.

It is noted that the omission of the four storey section of Block B, may in addition to improving the usability of the open space between these blocks, also increase the separation distances between the units in Block B and Block C from the proposed 15.1m to 25m.

3. While the Board notes the extensive compliance with BRE targets for combined kitchen/living/dining rooms of 2% ADF value, 1.5% for living rooms and 1% for bedrooms. However, it also notes that some apartments appear to have been designed as galley type kitchens (no windows) separate from the living/dining rooms. The applicant is requested to confirm the BRE Guidance methodology employed in respect of these apartments, and where non-daylit galley kitchens are proposed to provide the appropriate justification, and explanation.

### **B). Quality of Residential Amenity & Open spaces for Neighbouring Properties**

While it is noted that there will some reduction in daylight accessing a number of the residents and buildings surrounding the proposed site, it is considered that this is primarily an issue when considered in combination with the potential overshadowing

of the private amenity space of a number of gardens (Sir Ivor Mall) from Block F. The applicant is requested to respond to this with further elaboration in its sunlight/daylight report Block F by either (a) omitting the end apartments proximate to this boundary, ie apartment nos. 12, 24, and 36, thereby increasing the separation distance to 11m and potentially mitigating the overshadowing impacts, or (b) submit further elaboration to justify the proposed design.

### **C). Visual Impact**

While the Board may not necessarily concur with all concerns expressed regarding the height and associated visual impact, The applicant is requested to consider elaborating on it's analysis and justification with respect to the height of the proposal in terms of its potential visual impact. The applicant's attention is drawn to the following key points-

It is stated (by the Planning Authority and third parties) that the proposed development would 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.

It is noted that the Planning Authority, recommend that Block F be omitted in its entirety; the fourth, sixth, seventh and ninth floors of Block D be omitted; the first floor in Block C be omitted; and the first floor in Block B be omitted so that the maximum permitted height of the entire development would be 6 no. storeys.

While a view point has not been submitted from the perspective of the Anne Sullivan Centre, it is noted that the potential visual impact from this building may be ascertained having regard to 3D aerial images which have been submitted in the Architectural Masterplanning and Design Statement, and 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.

The applicant is requested to further elaborate and provide additional CGIs from this view point.

#### **D). Density, Height & Sustainability**

The applicant is requested to consider the appropriateness of this in terms of reduced density and design, and to respond accordingly. This may require presentation/submission at the Oral Hearing of further photomontages/ CGIs, sunlight/daylight analysis in respect of proposed open spaces, etc. and analysis of the capacity / frequency of the public transport network.

While the Board note that the subject site is located within 600m-700m of two Luas stops (ie. high capacity public transport stops) and high frequency bus services within approx. 1km of the site on the N11, and that the site is highly connected in terms of walking/cycling facilities and within walking distance of significant employment locations, local shops/services, and amenities, the applicant may wish to further elaborate on the suitability of the site in respect of access to 'high capacity' and 'high frequency' public and sustainable transport modes, as well as services and employment.

It is noted that concerns raised in the CE Report and in submissions around the impact that taller buildings on the subject site and that it would have an impact on the identity and legibility of Sandyford and Central Park as designated centres for future growth, potentially undermining the primacy of Sandyford District. Please provide further justification and elaboration, as applicable”.

## **2.0 Oral Hearing Report**

### **2.1. Introduction**



2.1.1. This is a report on the conduct of the Oral Hearing that took place on Tuesday 8<sup>th</sup> March and Wednesday 9<sup>th</sup> March 2022. A complete recording of the Oral Hearing is available for the Board's consideration and is attached to the file.

2.1.2. An Oral Hearing was held on-line via Microsoft Teams, commencing at 10.00am on Tuesday 8<sup>th</sup> March 2022 and finishing at approx. 13.00pm on 9<sup>th</sup> March 2022. The following parties were represented at the hearing:

**Applicants** – Suzanne McClure of Brock McClure Planning Consultants; Derek Murphy and Rebecca Adam of OMP Architects; Amy Hastings of ARC Architectural Consultants; Richard Butler of Modelworks Consultants; Christy O'Sullivan of ILTP Consultants.

**Planning Authority** - Dun Laoghaire Rathdown County Council was represented by Mr. Ger Ryan (Senior Planner), Ms. Michelle Breslin (Senior Executive Planner), and Ms Catherine Hanley (Executive Planner).

**Observers -**

1. Adrienne O'Sullivan
2. Alex and Hillary Kilcoyne, represented by Kieran O'Malley Planning Consultants
3. Ambre Bigeard
4. Angela Plunkett
5. Barry Saul
6. Brian Burns BKC Solicitors John Conway and Louth Environmental Group
7. Bridie Bergin
8. Brownyn O'Farrell
9. Conal Myles
10. Conor Sheehan
11. Deirdre Gilbride, Leopardstown and Brewery Road Residents Association
12. Elaine Byrne
13. Garrett O'Sullivan
14. Helena Daly
15. Jim and Judy Graham
16. Jim Halpenny
17. Joachim Braune

18. Laura Lynn – Bevan Ritchie
19. Laura Lynn - Kerry Laverty
20. Laura Lynn – Sarah O’Callaghan
21. Leopardstown Action Group – Katherine Maurer and John Bird
22. Martin Lavelle, on behalf of Ronan Cooper, Bridie Bergin, Deirdre Byrne, Giles Smyth, Keara Masterson, and Aisling Whyte.
23. Paschal Bergin
24. Pat Browne
25. Ronan Cooper
26. Sean McNulty
27. Sean Smyth
28. Shane Cusack
29. Shikhar Mathur

2.1.3. The following observers made a presentation to the Oral Hearing:

1. Conor Sheehan Planning Barrister / Brian Burns BKC Solicitors John Conway and Louth Environmental Group
2. Tudor Lawns/Sean McNulty
3. Laura Lynn’s Children’s Hospice,
4. The Residents of Silver Pines Helena Daly and Others
5. Martin Lavelle on behalf of Ronan Cooper and Others
6. Adrienne O’Sullivan
7. Shikhar Marthur and Ambre Bigeard
8. Katherine Maurer and John Bird

The following observers did not make a verbal presentation but made submissions to the Oral Hearing:

1. Alex and Hillary Kilcoyne
2. Brewery Road Management CLG1
3. Bronwyn O’Farrell and Andrew Peet

## 2.2. Submissions to the Hearing on behalf of the Applicant

2.2.1. The applicant's submissions were read into the record and key points are summarised hereunder. Full details are contained in the audio recording of the Oral Hearing and in the applicant's written submissions, which are appended to this report.

**Statement of Evidence from OMP Architects - Derek Murphy and Rebecca Adam**

2.2.2. Submissions were made by Derek Murphy and Rebecca Adam of OMP Architects.

2.2.3. The document titled 'Statement of Evidence by Derek Murphy and Rebecca Adam of O'Mahony Pike Architects' is accompanied by a document containing supporting graphics and imagery titled 'Oral Hearing Presentation'. Section 1 of the Statement of Evidence and Oral Hearing Presentation addresses the site history; section 2 relates to the location and context including scale transitioning, streetscape design strategy and building height strategy; section 3 relates to the scheme overview and design approach; and section 4 of the document addresses modifications for considerations, specifically Item A and Item D of the Board's Limited Agenda (as issued by the Board under Direction BD-009853-22).

2.2.4. Within The Statement of Evidence it is stated 'We contend that the above sections 1-3 of our statement of evidence supported by visual material have provided further elaboration and justification of the proposals' and '...we remain convinced and fully support the merits of the original submitted application scheme'. It is also stated 'Notwithstanding this, the applicant is extremely keen to commence development on site and begin to deliver much needed housing in this key location. If the Board considers the modifications necessary to enable a grant of permission, then the applicant is willing to accept a condition to implement the proposed modifications'.

2.2.5. The applicant sets out the following modifications under Section 4 of the Statement of Evidence and I quote hereunder the stated benefits of the modification as set out in the document:

- Block B - Removal of the 4 storey return element to the southeast of Block B:
  - Provide improved separation distance between Block B and Block C while enhancing communal open space provision and quality with the addition of a play space

- Adjust top floor level to provide a setback penthouse arrangement to articulate the roofscape in line with Block A and D / to lower and soften its profile.
  - Reduce visual prominence of built form enhancing the interface with the existing residential area on Leopardstown Lawns to the East.
  - Improved sunlight access to communal open spaces between Blocks A + B and B + C.
  - Set back on East to Leopardstown Lawns is for maintenance access only therefore limiting any potential overlooking issues that might otherwise arise.
- Block D – Removal of 1 full floor to the primary element thereby reducing the proposed height down from 8 to 7 Storeys (6+setback penthouse) and from 10 to 9 Storey ‘pop-up’ element on the corner.
    - This reduces density, height and scale and in doing so also reduces the visual impact to private amenity areas and existing residential dwellings to the North.
- Block F - Removal of 3 Apartments to provide greater setback of building from northeast corner and boundary with existing residential dwellings at 22 – 25 Silver Pines:
    - Increased separation distance enhances privacy and reduces the extent of shadow cast to neighbours.
    - Provides for the retention of Austrian Pine tree and Sycamore tree along this boundary while increasing green open space area as buffer to this edge.
    - Relocation of access stairs to the gable end provides for improved quality of central communal open space within Block F courtyard.
- Removal of 1 floor from the proposed 6 Storey ‘anchor’ element to 5 storeys at the interface with Leopardstown Road and entrance opposite Tudor Lawns. The cladding of the building has also been changed from light to dark grey brick to reduce the buildings presence and add visual interest:

- Reduced height and scale on corner provide for better transition and interface with existing residential at Sir Ivors Mall to the West.
- Additionally the material of this 'anchor' element would change from the SHD submission to use the brown brick of the lower levels of Blocks C & D to create variety to the streetscape.

2.2.6. The submission notes the amendments as set out reduces the overall number of units from 463 units to 428 units. The amendments to the height are illustrated through a series of amended cross-sections (fig. 47, 48) and 3D massing views (fig. 37-46). A site layout showing baseline heights and a site layout showing modified heights has been submitted (fig 49, 50).

2.2.7. Section 4.4 of the 'Oral Hearing Presentation' includes drawings of each block and the modifications to those blocks, namely Block B, Block D and Block F.

2.2.8. Section 5.5 sets out the impact of the modifications suggested in terms of density (reduced from 179 d/h to 166 d/ha), dual aspect (50.1% to 50%), and parking ratio (0.55 to 0.6 per apartment). In terms of breakdown of units, the modifications result in a unit mix of 17% studio units (was 18%); 25% 1 bed units (was 25%); 56% 2 bed units (was 54%); and 2% 3 bed units (was 3%).

**Submission by Amy Hastings of ARC Architectural Consultants on behalf of the Applicant**

2.2.9. Amy Hastings of ARC made a submission to further elaborate on key modification items for consideration, specifically relating to Item A) 1, 2, and 3 and Item B).

2.2.10. I refer the Board to submission document titled 'Addendum Sunlight and Daylight Access Analysis', which is accompanied by document titled St. Joseph's Shadow Diagrams, with further detailed contained in the submission titled Addendum No. 1 Environmental Impact Assessment Report.

2.2.11. It is stated that in response to the issues raised by An Bord Pleanála in relation to Open Spaces 05 and 06, the Applicant proposes a number of changes to Blocks B and D to improve sunlight access to open spaces. These changes are as follows:

- The removal of the 4 storey return to the Southeast of Block B to improve separation distances between Blocks B and C, while enhancing the communal open space provision with an added play space.

- In addition, the top floor level of Block B has been amended with a setback penthouse arrangement to articulate the roof scape in line with similar setback provided on Block A and D.
- Reduction in height by one storey on the primary building of Block D from 8 storeys to 7 storeys (6 storey + penthouse) with 9 storey popup on the corner. This reduces the density, height and scale which results in a reduction in the visual impact with existing adjoining residential properties while also improving sunlight access to the communal open spaces.

2.2.12. The following points are noted:

- ARC's analysis indicates that, as a result of the design changes now proposed, Open Space 05 (a communal open space) will achieve in excess of two hours of sunshine over at least half its area on 21st March (i.e. greater than then BRE Guide recommendation for sunlight access).
- Open Space 06, a visual amenity space, will be considerably enlarged as a result of the design changes now proposed. While Open Space 06 is unlikely to achieve the BRE Guide recommendation, the larger space now proposed is likely to receive sunlight over more than half of its area for a longer period (i.e. more than 1.5 hours) than would have been the case for the space as originally proposed. Open Space 06 will also receive some sunlight over a longer period on 21st March than the originally proposed space.

2.2.13. With regard to the issue raised in relation to galley kitchens, the following response is noted:

The subject application does not propose any galley type or enclosed windowless kitchens. On the application drawings, a number of kitchen / living / dining rooms are illustrated as having a counter (e.g. a kitchen island) separating the kitchen area from the living area, but it is ARC's instruction that this counter is not a floor-to-ceiling partition. As indicated in ARC's Assessment of Sunlight & Daylight Access within the Proposed Development as submitted with the application, ARC's assessment assumes that all kitchen / living / dining rooms are open plan and that these rooms are not split up by walls or fixed furniture (e.g. a kitchen island). The full area of kitchen / living / dining rooms was assessed for daylight access as indicated in yellow on the

diagrams at Figures 1 to 6 in ARC's Assessment of Sunlight & Daylight Access within the Proposed Development

2.2.14. With regard to the limited agenda item B, 'Quality of Residential Amenity and Open Spaces for Neighbouring Properties', the revised design for the subject development proposes the removal of unit nos. 12, 24 and 36 from Block F. The following points are noted:

- The impact of the proposed development (both as originally proposed and as now revised) on sunlight access to rear gardens at Sir Ivor Mall and Silver Pines does not fall within adverse ranges within the meaning of the BRE Guide. As such, the BRE Guide would suggest that the impact of shadows cast by the proposed development on rear gardens at Sir Ivor Mall and Silver Pines will not be noticeable. The potential impacts are discussed in more detail in Chapter 18 of the EIAR.
- Notwithstanding this, it should be noted that the changes to Block F now proposed will reduce the impact of shadows cast by the proposed development on sunlight access to the rear gardens of a number of houses, including Nos. 25 (Zone 15) and 26 Silver Pines (Zone 16). For the purposes of this response document, the results of ARC's analysis of the potential impacts on sunlight access to Nos. 25 and 26 Silver Pines are reproduced in Table 3 below and compared with the results of the analysis of the development as originally proposed.
- The potential impact of shadows cast by the proposed development (either as originally proposed or as now revised) on sunlight access to these rear gardens does not fall within adverse ranges within the meaning of the BRE Guide. However, Table 3 also shows that the design changes to Block F suggested by An Bord Pleanála and now proposed by the Applicant are likely to improve sunlight access to Zone 15 (the garden to the rear of No. 25 Silver Pines) in the morning and over the course of the afternoon and to Zone 16 (the garden to the rear of No. 26 Silver Pines) over the course of the afternoon.

**Submission by Richard Butler of Modelworks Consultants on behalf of the Applicant**

2.2.15. The limited agenda requested the applicant under Item C to ‘...elaborate on its analysis and justification with respect to the height of the proposal in terms of its potential visual impact...’, with attention drawn to key points as set out in the limited agenda.

2.2.16. Evidence was presented by Richard Butler of Model Works Ltd. in a document titled ‘Landscape and Visual Impact Assessment’ to address Item C of the limited agenda. Supporting information is also contained within the submission titled Addendum No. 1 Environmental Impact Assessment Report.

2.2.17. 12 no. additional viewpoints have been submitted, in addition to existing 18 viewpoints. It is stated that the new viewpoints were selected to address the potential impacts on:

- Silver Pines, particularly the entrance to the estate and the nearest houses to the site;
- Minstrel Court;
- The Anne Sullivan Centre;
- Leopardstown Lawn;
- Woodford, to the west of Brewery Road;
- Tudor Lawns, to the east of Leopardstown Road;
- Leopardstown Link Road;
- Leopardstown Road west of the Leopardstown junction;
- Brewery Road.

2.2.18. It is stated ‘The selection of viewpoints should also allow for an understanding of the proposal’s effects in respect of the vision for the area, and the roles played by this area and others in the vicinity’. This submission therefore addresses Item C as well as Item D of the Agenda issued by Board Direction BD-009853-22.

2.2.19. The impacts in the VIA are noted as follows:

- The photomontages (e.g. Viewpoints 02 and 05 below) show that the wide road can accommodate the proposed building height without any sense of excessive enclosure or dominance.



- View 5, removal of floor to Block F: The effect of the adjustments on View 05 in particular is notable. The step up in height from the neighbouring house would be less pronounced, and the change in colour would further reduce the building's presence. It would also add to the visual interest of the new street elevation, improving the composition overall... Prominence of buildings, and the related streetscape enclosure, do not necessarily constitute 'dominance', 'overbearing', or injury to the area's visual amenities. The location, and the opportunity presented by the site, warrants this approach, and the design is of appreciably high quality.
- View 4 Leopardstown Road: Design measures taken to avoid an unbroken, monolithic built frontage to Leopardstown Road include (a) the folded floorplans of Blocks C and D, (b) the variations in height, façade design and materials on either side of the folds, (c) the gaps between the blocks forming the gateways into the new neighbourhood, and (d) the broad green verge and tree line in front of the buildings, supplementing the two most significant copses of trees, which would be retained.
- The area which would experience the most significant visual effects as a result of the development is a pocket of land that juts into the site from the west, ie Nos. 19-25 Silver Pines and the Anne Sullivan Centre. Nos. 22-25 Silver Pines in particular, are highly exposed to any development on the site as their gardens back onto the site boundary...The reduction in height of Block D by one storey would make a noticeable difference to the extent of protrusion of the building above the houses' roofline.
- The shortening of Block F (to the right in View 11c-1) would also pull that building further back from the gable wall of no. 25 Silver Pines - and allow for the retention of an existing mature tree on that boundary. The adjustments would make a meaningful reduction in the sense of built enclosure. The photomontages show that this small part of Silver Pines would experience very significant visual effects as a result of the development. The new buildings would not be unsightly (the form and facades are well-articulated and the landscape buffer inside the west boundary would soften the transition), but they would shift the townscape character from suburban to

urban. This localised effect has to be considered against the sustainability gains of a high density development on the large, strategically located site.

- Impact on Anne Sullivan Centre and Silver Pines: ...While the visual effects are significant, they are not necessarily negative, and the following factors should be considered. The first is the small part of the receiving environment which would be affected in this way (i.e. the Anne Sullivan Centre and Nos. 19-25 Silver Pines). The second is whether the change can and should be considered appropriate given the importance of the opportunity presented by the site. Densification of former suburban areas is a necessary part of the climate change response. The introduction of new building typologies and greater built enclosure to views from the public and private realm are unavoidable effects of compact growth policy. The key question is whether the design represents a balanced response to the combination of opportunity and sensitivities in the area. The localised nature of the visual effects is emphasised by the viewpoints addressing Minstrel Court just to the south of the Anne Sullivan Centre and Nos. 19-25 Silver Pines.
- Both views below (both showing the adjusted scheme) show that the effects on the public realm in Minstrel Court would be negligible. The development would be visible in views from the rear windows and gardens of the terraced houses on Minstrel Court and Sir Ivor Mall. This sensitivity has been recognised in the design process and, accordingly, Block F - where it lies directly to the rear of these neighbouring houses - is limited to three storeys. This is in keeping with the building height guidelines.
- View 12c and View 13 - while the context of the houses on Minstrel Court and Sir Ivor Mall would be changed – with new higher density housing introduced to the rear of these properties, increasing the built/visual enclosure – the development would not be visually dominant or overbearing. The proposal also allows for the retention of a number of trees and hedges along these boundaries, and this would be supplemented by additional planting.
- Leopardstown Lawns, View 10 and View 10b - Although less prominent than in some views from Silver Pines, the development would similarly change the character of the view, causing a shift towards a more urban condition. In the

context this is not inappropriate. With the permeability of the built form, the separation distance and the retained trees, the transition would not be overly abrupt.

**Submission by Christy O’Sullivan of ILTP Consultants on behalf of the Applicant – in response to Item D**

- 2.2.20. The applicant under Item D is requested to address Density, Height and Sustainability, specifically to address access to quality public transport and the vision for the area and others in the vicinity.
- 2.2.21. The submission from ILTP is titled ‘Proof of Evidence’, of which section 2 is titled ‘Response to ABP’ and references the policy context and section 3 relates to ‘assessment of public transport capacity and availability’.
- 2.2.22. Section 2 references the Urban Development and Building Height Guidelines 2018 where the following criteria relating to building height is highlighted: “The site is well served by public transport with high capacity, frequency service and good links to other modes of public transport”. ILTP states ‘we have taken the requirements of these guidelines in respect to public transport as meaning having both a high capacity and high frequency service’. It is stated that a very high frequency public transport service is usually defined as that with frequencies of 10 – 15 minutes at peak times and capacity varies depending on the vehicle type operating on a route, with the capacity of a transport service stated to be ‘therefore a combination of both capacity and frequency’. The Apartment Guidelines are also referenced with regard to how a particular location might be classified in terms of accessibility to a high capacity and high frequency public transport service, with both ‘Central and Accessible Urban Locations’ and ‘Intermediate Urban Locations’ referenced in the Statement of Evidence.
- 2.2.23. It is stated that current Luas services to and from the city centre typically operate at an average of 3-5 minute frequency during peak times and reducing to every 12-15 minutes at off peak periods. Commentary is given on the recent upgrade of the Luas carriages and associated increased capacity. A Luas capacity assessment is set out on page 8 of the Statement of Evidence, the capacity per tram being 480 passengers (up from 319 passengers per shorter tram, therefore 25% increase) with works on the line also undertaken to increase capacity. The line capacity in persons per

direction per hour (pdph) at peak periods are indicated to be between 4,404 pdph and 11,010 pdph, assuming an operational capacity of 360 passengers/tram on new length of 55m trams, and assuming a capacity of 90% per tram.

2.2.24. A bus frequency and capacity assessment is set out on pg 8 of the Statement of Evidence, with a bus capacity of 90 passengers per bus indicated and a high frequency relating to 5 minute intervals at peak hour for central urban locations and 5-10 minute intervals at peak hour for intermediate locations. At the presentation to the Oral Hearing Christy O'Sullivan corrected the information in the document due a miscalculation, and stated the figures should be 540 pdph at 10 min intervals and 1080 pdph at 5 minute frequency.

2.2.25. The Statement of Evidence states ILTP undertook an on-site survey and observation of the AM peak bound service at the Sandyford luas stop and noted that additional capacity is in operation (ie new trams are in operation) and noted there was ample spare capacity on the luas carriages, concluding that 'there is currently both a very high frequency and high-capacity public transport service already available to meet the needs of the proposed development'. With regard to the bus services, table 3.2 of the submission sets out bus service and frequencies in the vicinity of the subject site, stating 'This shows very high frequency bus service in place in the surrounding area to serve the proposed development, with 19 buses per hour on the N11 in each direction'. Commentary was also made in relation to investments in active travel in this area of Dublin and to the post-Covid impact on travel numbers as per research undertaken in January and March of 2022.

### **2.3. Planning Authority – Dun Laoghaire Rathdown County Council**

The planning authority did not make a submission to the hearing.

### **2.4. Observer Submissions**

The observer submissions to the hearing elaborate on the written submissions submitted prior to the hearing and are summarised hereunder and on the recording of the Oral Hearing where relevant. A copy of the submissions are appended to this report.

### **Presentation by Brian Burns and Conor Sheehan Barrister**

- 2.4.1. Conor Sheehan, barrister on behalf of John Conway and the Louth Environmental Group made a statement at the outset of the Oral Hearing, during the setting out of the procedural issues by the Inspector (he did not make a presentation under module 2 of the Oral Hearing relating to observers).
- 2.4.2. Mr. Sheehan stated he wished to make a preliminary jurisdictional objection to the hearing. Agenda circulated on 7<sup>th</sup> February 2022 essentially invites or requests the applicant to provide further information and/or revised plans in respect of the development. There is no provision under the 2016 Act for the Board to request further information or revised plans, therefore the Board doesn't have the jurisdiction to request or consider those revised plans as part of this Oral Hearing.

**Presentation by Tudor Lawns/ Angela Plunkett and Sean McNulty**

- 2.4.3. An oral and written submission was presented by Sean McNulty on behalf of Tudor Lawn Residents Association. The submission is summarised below and is attached to the file:
- Visual Impact, Overshadowing and Overbearing on Neighbouring Property of Laura Lynn Children's Hospice from Apartment Blocks D and C.
  - Overlooking and Overshadowing: Proposed modifications of Block D and C would still result in overlooking and overshadowing of Laura Lynn.
  - The Addendum to the EIAR states that overshadowing from Block C has the potential to adversely affect the daylight/sunlight for some buildings in the hospice.
  - There is also reference to possible overshadowing of the outdoor areas in the grounds from Block C.
  - Visual Impact and Overbearing: Both blocks would stand at 7 storeys high in overbearing contrast to the low-lying one and two storey buildings and open spaces on the Laura Lynn Campus directly opposite. A large number of balconies directly overlooking the children's hospice and grounds.
  - Density, Scale and Sustainability: Lack of adequate parking provision, and inadequate capacity of public transport services. Reality of location of site between M50 and N11 means there will be travel by car. The local public

transport services are limited in their reach to other parts of the city and beyond, and the journey times can be long for a commuter.

- Shortfall in parking will result in difficulties for residents in Tudor Lawns and the surrounding neighbourhoods, as well as stress for future residents.
- Concerns about privacy and related sensitivities for the children in the hospice, their visiting families and staff. Light and noise pollution is also an issue.

### **Presentation by Kerry McLafferty CEO of LauraLynn Ireland's Children's Hospice**

2.4.4. An oral and written submission was presented by Kerry McLafferty CEO of LauraLynn Ireland's Children's Hospice. The submission is summarised hereunder and attached to the file:

- Overshadowing and intrusion on privacy, dignity, and comfort of residents due to height and density.
- Four bedrooms face north and will be directly overlooked.
- Size and scale out of proportion to existing environment at LauraLynn which is a 'home from home' environment.
- Traffic and noise pollution would have detrimental impact on therapeutic benefits of outdoor space.

### **Presentation by The Residents of Silver Pines Helena Daly and Others**

2.4.5. An oral and written submission was presented by Helena Daly, Conal Myles and Shane Cusack. The submission is summarised below and is attached to the file:

- Item A: Very little space between Blocks A and B and especially Blocks B and C; overlooking and overshadowing between Blocks A, B and D; Inadequate open space to rear of Block D; Inadequate open space or access to open space in the area; Lack of a fire risk assessment.
- Item B: Severe impact on daylight and sunlight to 7-18 and 22-25 Silver Pines, and to front of 1-6, 19-21, and 26-29 Silver Pines.

- Blocking of winter sun not fully considered for Anne Sullivan Centre and Silver Pines.
- Negative impact on peaceful surrounds of Anne Sullivan Centre.
- Daylight/Sunlight/Overshadowing submission from ARC: confirm reduced levels of natural daylight and overshadowing for 6-9 months of the year. Doesn't refer to impact on gardens.
- Rating of imperceptible to moderate and for no. 24-25 of significant for a consideration part of the day during autumn and spring.
- Item C: Relevant views and impacts not provided. Lack of visuals from rear gardens. No view from the cul-de-sac of Silver Pines toward St. Josephs House. Does not meet requirements of submission.
- Height and scale excessive for zoning and will be overbearing. Draft plan maintains height strategy at 4 storeys.
- Misleading references to public space in the area.
- Overlooking and devaluation of property values.
- Buildings too close to street edge, overlooking and security issues.
- Item D Density, Scale, Height and Sustainability: 1-2 storey area is distinct from Sandyford District, South County Business Park and Central Park with their tall buildings. Tall buildings should be confined to those areas.
- Contrary to principles in development plan height strategy.
- Distance to Sandyford Luas is 650-700m and to Central Park is 900m. It is well over 1km from centre of site to N11.
- No room on the Luas.
- Only one bus on N11 is every 10 mins, 46A. Brewery Road buses of 118 and 143 and Leopardstown Road bus of 114 are infrequent, as per submitted table.
- Existing car access issues through Silver Pines.
- Disruption due to noise of site works on people who work from home.

- No. 25 Silver Pines – negative visual impact, overbearing, overshadowing, risk during construction of debris in garden as boundary wall is to garden. AS per sunlight study, there will be reduction in sunlight access during the morning and for most of the afternoon when sunlight tends to be most valued.
- No school places, people will have to travel.

**Presentation by Martin Lavelle Agent on behalf of Residents of 1-5 Minstrel Court and 26 Arkle Square**

2.4.6. The submission was read into the record by Mr Martin Lavelle, Agent, and is summarised hereunder. A full copy of the submission is attached to this file:

- Item A, Not relevant.
- Item B, Overshadowing and Potential Overbearing of Private Amenity Spaces: It is stated that the observers are processing a Registration for Right to Light under the Land & Conveyancing Law Reform Act 2009 with the PRAI.
- The applicant is requested to respond to this with further elaboration in its sunlight/daylight report Block F by either (a) omitting the end apartments proximate to this boundary, i.e. apartments nos. 12, 24, & 36, thereby increasing the separation distance to 11m – Submission: This means a vertical building height less than  $(0.4663 \times 11) = 5.12$  metres with a further reduction in height of 0.8metres to reflect different ground floor levels to 4.32metres.
- Issue of solar dazzle not addressed.
- Removing the Sunlight from the rear of a house has serious implications relating to the solar heating, photovoltaic cell installation from South facing buildings & living areas & potential insulation requirements. Any impact from the proposed development has a serious effect on the household BER classification, which impacts the value of the house. Approval should only be given for developments that have no impact on adjoining properties from Southern solar heat.
- Item C Visual Impact: No adequate Bus service in the area & no relevance can be construed from an over reliance on the unconsented BusConnect scheme. The Luas stops are not 600-700m from the site, but are 850m-900m



when measured from St. Josephs House via google maps. Bus stop 2064 on N11 is 1.2km from St. Josephs House. The site is not highly connected in terms of walking/cycling facilities, and amenities – no shops, no schools with capacity, no churches etc. Leopardstown is not a centre on the core strategy map. Leopardstown is not Sandyford.

- Leopardstown is not a Major Centre, Secondary Centre or a future development area as outlined in the Eastern & Midlands Regional Spatial & Economic Strategy 2019 - 2031, the 2016-2022 & 2022-2028 County Development Plans, nor is it sufficiently important to have a Local Area Plan. This is important in relation to the Apartment Guidelines as it confirms that the site comes under Category 3, a Peripheral and/or less Accessible Urban Location. The density for this site should be less than 45 dwellings per Ha as this site is a suburban development & does not meet the proximity or accessibility criteria. The car parking proposed is inadequate and does not meet standards.
- Note the number of school places [6,733] required to cater for the existing number of SHD's.
- Note the definition of "within reasonable distance" of 10 minutes in Ministerial Apartment 2020 Guidelines, which includes Adults. Note the walking distances to Amenity Services of upwards of 20minutes [LEP Inn 8minutes, Stillorgan Village 21minutes, Stillorgan Industrial Area 19minutes, Sandyford Business Park 15minutes, Sandyford Village 23minutes, Foxrock Village 21minutes, Cornelscourt 42minutes, Newtownpark Avenue shops 31minutes]. There is an inappropriate provision of community and social facilities, sports clubs, health care facilities, in the area.
- Walking Time St. Josephs to Luas Station =10.6minutes @ 4.8kph walking speed. Waiting time max = 15 minutes – 4 trams per hour. SWT =  $0.5 \times 60 / 4 = 7.5 + 0.75$  minutes for reliability issues = 8.25minutes. Equivalent Doorstep Frequency =  $30 / 8.25 = 3.6$ . [Note this does not include the walking time from Public Transport hub to work/school location, nor does it include the reduction in service from 10.00 – 16.00hrs daily.

- Does not comply with PTAL (public transport accessibility levels) as applied in London.
- The entrance should not be through Silver Pines cul-de-sac. The removal of Block F would facilitate a signalised junction to incorporate the Tudor Lawns junction.
- Over intensification of traffic.

### **Presentation by Adrienne O’Sullivan of 2 Leopardstown Lawn**

2.4.7. An oral and written submission was given, which is summarised hereunder and attached to the file, including appendix of commissioned View Verification Study (additional photomontages of the development):

- Development will overshadow and dominate Leopardstown Lawn in its entirety, Blocks C and B will be overbearing, and will result in significant overlooking, with noise and light pollution at night.
- Complete loss of any and all privacy within amenity spaces.
- Submission of separately commissioned photomontages.
- Visual impact will change entire character of the community.
- Trees shown to be retained cannot be.
- Height, density and scale contrary to zoning objective A and development plan.
- Request Block C be omitted and Block B be replaced with townhouses.
- Height of all buildings should be limited to 3 storeys.
- Inadequate green space.
- Opposed to roof terraces.
- Disregard of existing resident's homes and properties and right to privacy within them.
- Critical of SHD process and timelines.
- Request further review by residents of noise impact assessment, EIA, tree assessment, light impact assessment, and traffic impact assessment, public

transport, drainage and waste, bat and wildlife assessment, and parking assessment.

### **Presentation by Shikhar Marthur and Ambre Bigeard of 3 Leopardstown Lawn**

2.4.8. An oral and written submission was presented, details of which can be viewed in the attached submission to this file, with a summary provided hereunder:

- Visual Impact: There are no viewpoints from Leopardstown Lawn, only from Leopardstown Drive and Leopardstown Avenue looking in the Lawn; and there is no viewpoint also from the walking greenway.
- Separately commissioned photomontages are submitted.
- Issues - Towering structures; loss of privacy to garden and house; noise pollution; light pollution; overbearing of structures amplified by balconies; loss of monetary value to house.
- Overbearing impact – inadequate tree line. Blocks B and C will protrude above the tree line. The proposed tree lines around the site will not shield anybody from the overlooking structures. Concerns over inadequacy and survivability of new trees in landscape plan, with no provision to look after the trees after 18 months. There are no retained trees within the boundary of the development blocking the view to houses nos. 1 / 2 / 3 / 4 / 5 / 6 Leopardstown Lawn.
- Leopardstown Lawn – elevation difference with Leopardstown Lawn lower than the site means Blocks B and C will be higher, appearing as an extra storey, and exaggerate the overbearing effect.
- Overshadowing – ARC Analysis examined and even if all the houses in the lane will receive above 25% APSH annually, and 5% APSH during the winter period, there is a significant loss of APSH annually (up to 12%), and the impact is particularly important in winter months (up to 11%).
- Loss of sunlight to Leopardstown Lawn at the end of the day (2 hours for 2 houses), are considerable changes as schools and work finish in the afternoon / early evening hours which means residents of Leopardstown Lawn will lose sunlight at most crucial hours of the day.

## **Presentation by Katharine Maurer and John Bird on behalf of Leopardstown Action Group**

2.4.9. An oral and written submission was presented, details of which can be viewed in the attached submission to this file, with a summary provided hereunder. I note no written submission was provided by John Bird and I refer the Board to the audio recording in this regard.

2.4.10. The following is a summary of the submission made:

- The massing, design, and modulation of the scheme both within the development and, critically for an infill development in a sensitive environment (suburban, historically sylvan, well established low level residential area), must be appropriate to and have correspondence with, even as a transition, the immediate and wider neighbourhood. Proposal is not appropriate and contrary to zoning objective A.
- Despite the suburban location, the land has been variously characterised by the applicant and their agents as 'urban', undergoing transition from suburban to urban, as part of the 'emerging' urban context and Sandyford Urban Framework Plan (SUIFP). It is treated as a fully urban site in terms of density applied, unit type and height. This site is not in SUIFP and proposal is not appropriate.
- The wayfinding is complex and poorly indicated. The massing of the blocks means there are large physical obstacles which are not easily legible at the scale of the neighbourhood or the street.
- The articulation of large blocks simply using surface decoration or modulation i.e., balconies and frames/screens, does not reduce the single form massing of each block. Fig 9. It is notable that the 'additional' 5 storey elements of Blocks C and D will read as part of the main block for the first five storeys which gives a substantial footprint to each.
- We would ask the inspector to consider the planning of the site layout and the block footprint sizes in terms of the local grain and appropriate site coverage.

- The actual change at the north-eastern edge to the lane and Leopardstown Lawn is minimal. No photomontages of lane/greenway shown, aside from those commissioned by residents.
- There is a 3m level difference between the site and Leopardstown Lawn.
- As Block C is in fact 6+ storeys in relation to the rear gardens of Leopardstown Lawn, we calculate the height of the block to ground level as being circa 20.875m. We ask the inspector to consider not just the monolithic nature and overbearing impact this will have but also why proper and transparent analysis of this was not presented in the application.
- Mass and scale of Block C onto Leopardstown Lawn.
- We note the judgment of Humphries J. in *Clonres CLG v. ABP, Minister for Culture, Heritage & the Gaeltacht, Crekav, Dublin City Council and Sweetman. ABP, Ireland & the Attorney General, Dublin City Council, Crekav (No. 2) [2021] IEHC 303, Humphreys J., 7 May 2021*. which appears to be relevant. In that judgment, the judge concluded that “there wasn't anything on the basis of which it could have decided that the proposed SHD was a development of strategic or national importance”.
- We submit that the proposed development does not meet the required SPPRs (1-3) for the assessment of building height.
- The development is suitable for an ‘urban’ design context not a ‘suburban’ one.
- The confused nature of the public open space, the fact that there is under provision of the same and that, even after modification, some has compromised amenity are indicators of fundamental overdevelopment and a lack of appropriate site analysis.
- The monolithic nature of Blocks B, C and D (C in particular) is contrary to the stated intention to increase permeability.

**Submission by Kieran O'Malley & Co. Ltd. on behalf of Alex and Hillary Kilcoyne of 6 Ivor Mall**

2.4.11. A written submission was given from Alex and Hillary Kilcoyne, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

- The applicant has failed to elaborate on its analysis and justification with regard to height in terms of its potential visual impact on Sir Ivor Mall as required by Item C of the Board's letter dated 7<sup>th</sup> February 2022.
- The revised drawings do not show the correct layout of no. 6 Sir Ivor Mall, as constructed under permission D05B/0463. The development at ground level is 16m from the rear extension, with a separation distance of 8.3m to the boundary. An arrangement as per Block F and Silver Pines is required. Proposal will be visually dominant and overbearing.
- The images from OMP in section 4 of the Oral Hearing Presentation document are misleading as they show 2 or 3 lines of mature trees which do not exist. Pg 22 shows one tree on the boundary, where have the additional trees in section 4, come from? Photomontages 5 and 13 confirm they don't exist.
- Photomontage view 13 presents a selective view. A front view of Sir Ivor Mall, as that presented now for Silver Pines, would have provided a basis for an analysis, assessment and conclusion of the visual impact at the private amenity spaces at Sir Ivor Mall.
- The applicants submission is to 'connect' the site to Central Park and Sandyford Industrial Estate. The site does not form part of these locations. The site is part of an established suburban setting formed by Leopardstown Road, Brewery Road, and the walkway linking both roads.
- It is requested that Block F be omitted and any replacement be no greater than two storey dwellings. The amended scheme should have a further entire floor omitted to result in a part two, part four building Block F and this revised building should be moved eastwards to increase the separation with Sir Ivor Mall by at least 3m., ie setback is increased to 11m.

**Submission by Kieran O'Malley & Co. Ltd. on behalf of Brewery Road Management CLG1 (management company for the 50 properties in The Chase,**

**that comprises Arkle Square, Ballymoss Parade, Chase Lodge, Minstrel Court and Sir Ivor Mall)**

2.4.12. A written submission was given, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

- Proposal would detract from Arkle Square ACA, would be out of character and pattern of development in the area, would be seriously injurious to residential amenity and privacy of properties at Minstrel Court and Sir Ivor Mall, and would be excessive overdevelopment by way of density and building height.
- OH submission fails to adequately address the visually dominant and overbearing form of development when viewed from Sir Ivor Mall and Minstrel Court, as per item (c) of the Board's letter dated 7<sup>th</sup> February.
- The submission does not address the PA's request to omit Block F. The submission does not respond to the Boards request to elaborate on its analysis and justification with regard to height in terms of its potential visual impact on Sir Ivor Mall and Minstrel Court. The review by Model Works is unsatisfactory and does not explain how the omission of one floor from Block F improves the transition to Sir Ivor Mall.
- It is requested that Block F be omitted and any replacement be no greater than two storey dwellings. The amended scheme should have a further entire floor omitted to result in a part two, part four building Block F and this revised building should be moved eastwards to increase the separation with Sir Ivor Mall by at least 3m., ie setback is increased to 11m; and a further full floor should be omitted from Block D thus reducing it to 6 storeys (5 + PH).

**Submission by Bronwyn O'Farrell and Andrew Peet of Lismara, Leopardstown Road.**

2.4.13. A written submission was given from Alex and Hillary Kilcoyne, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

- The applicant needs to address the impact of the proposed development on traffic in the surrounding area.

- The response should note the current & growing volume of traffic given new developments in South County Business Park, Sandyford Industrial Estate, and the impact on residents in not only the immediately adjacent properties but across Foxrock, Stillorgan, Leopardstown, and Blackrock. The applicant should be required to address the additional burden all users of Brewery & Leopardstown Road will face with 463 new apartments and how traffic can be alleviated.
- The applicant will likely refer to public transport as the most appropriate means to alleviate traffic congestion. However, the applicant should be required to address how the proposed development will impact on public transport given that both Luas trains and Dublin buses are returning to near full capacity given the eased Covid restrictions and people returning to work from all nearby bus stops and Luas stations.
- Supportive of An Bord Pleanála's requirement for the applicant to address the critical issues of density, height, the impact of the proposed development on adjacent properties, and impact on local amenities.
- The new development, even at reduced levels, would lead to oversaturation. Residents of the local communities have already witnessed decline in access to local parks and pitches.
- Difficulty accessing own property at present due to traffic.

## 2.5. Prescribed Bodies

Transport Infrastructure Ireland – TII submitted observations relating to the proposed development in a written submission to the PA. The comments outlined in the submission concerned remain our position. TII therefore will not be presented at the OH itself.

## 2.6. Questioning

### **Observers Questions from the following observers**

- Silver Pines – Helena Daly
- Martin Lavelle
- Shikhar Mather and Amber Biegeard



- Adrienne O’Sullivan
- Katherine Maurer
- Ray O’Malley on behalf of Alex and Hillary Kilcoyne

#### 2.6.1. **Inspector Questions**

- Question in relation to Item B and Block F and impact of overshadowing.
- Question in relation to Item A and Amenity Space 6.
- Question in relation to Sunlight and Daylight Access Analysis and impact on Laura Lynn Children’s Hospice.

These questions are discussed further in section 3 hereunder.

#### 2.7. **Closing Submissions**

Closing statements were made by the following parties:

- Tudor Residents
- Martin Lavelle
- Shikhar Mather and Amber Biegard
- Adrienne O’Sullivan
- Katherine Maurer and John Bird
- The applicant

The hearing closed at approx. 13.00pm on Wednesday 9<sup>th</sup> March 2022.

### 3.0 **Assessment**

3.1. This report should be read in conjunction with the previous Inspector’s report prepared in respect of the proposed strategic housing development ABP-311540-21, dated 10<sup>th</sup> January 2022. I would highlight to the Board that the operative development plan is the Dun Laoghaire Rathdown Development Plan 2016-2022. The Dun Laoghaire Rathdown Development Plan 2022-2028 was made by the elected members on 10<sup>th</sup> March 2022. The new plan will come into effect six weeks after its adoption. I therefore continue to assess this application against the Dun Laoghaire Rathdown Development Plan 2016-2022.

- 3.2. Following on from the holding of an Oral Hearing on 8<sup>th</sup> and 9<sup>th</sup> March 2022, held in accordance with the limited agenda as directed by the Board under Board Direction BD-009853-22 (dated 4<sup>th</sup> February 2022), I have assessed and reviewed the information presented at the Oral Hearing, having regard also to the original submission, the EIAR and the Screening for Appropriate Assessment.
- 3.3. The limited agenda issued by Board (set out in 1.2 of this report) is discussed under the following headings hereunder: Quality of Residential Amenity and Open Spaces; Quality of Residential Amenity and Open Space for Neighbouring Properties; Visual Impact; and Density, Height and Sustainability.
- 3.4. **Quality of Residential Amenity and Open Spaces**
- 3.4.1. As per Board direction Board direction BD-009853-22, it is stated that ‘there are a number of areas within the scheme where the amenity afforded the future residents may be less than ideal and may be improved by amendment. The applicant is requested to provide further elaboration or justification of the proposal in respect of these areas (as identified below), and to consider the suggested amendments -1. Notwithstanding the exclusion of the area of communal open space 5 and visual amenity space 6 from the open space calculation, it has been stated that the quality of these spaces, including compliance with BRE Guideline targets for sunlighting of amenity areas, could potentially be of a higher standard. In this regard consideration of the omission of upper floors of Block D or other amendments may assist, although it is acknowledged that the quality of the spaces and the scheme is based on balance....2.... and consideration of the omission of the four storey section to the side of Block B in order to determine if it would improve the quality and functionality of this open space...’.
- 3.4.2. The applicant in their submission has proposed the following modifications:
- Block B - Removal of the 4 storey return element to the southeast of Block B
  - Adjust top floor level of Block B to provide a setback penthouse arrangement to articulate the roofscape in line with Block A and D / to lower and soften its profile.

- Block D – Removal of 1 full floor to the primary element thereby reducing the proposed height down from 8 to 7 Storeys (6+setback penthouse) and from 10 to 9 Storey ‘pop-up’ element on the corner.

3.4.3. I refer the Board to the following two documents submitted by ARC: ‘Addendum Sunlight and Daylight Access Analysis’ and ‘Addendum no. 1 EIAR’. The BRE guide states that ‘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’.

3.4.4. Communal open space area 5 will meet the BRE Guide in relation to sun lighting of this amenity space with the proposed modifications in place. Upon questioning from the Inspector at the OH in relation to the remaining non-compliance of visual amenity area 6, Amy Hastings of ARC indicated that the main improvement to open space area 5 arose from changes to Block B but mainly from changes to Block D given its position due south of the space and given its distance from the space. It is stated that the layout of visual amenity area 6 is different, the blocks on either side are not straight as per on either side of open space 5, and Ms. Hastings considered any changes to Block C would have to be significant to bring the area to above the BRE guide of 50%, given distance from the massing is an important consideration. Ms. Hastings indicated that in her opinion the area was marginally below the BRE guide, the guide of 50% is not intended as a rigid guide, and there is value to a space even when the sun is not directly hitting the ground. She highlighted the function of open space 6 is a visual amenity space.

3.4.5. In examining the quality of the open spaces, I note that open space area 5 does now meet the BRE guide, however, I would note it just meets the 50%. I welcome the removal of a floor from Block D as a positive amendment in achieving this, with consequential stated benefits in relation to visual amenity as stated in the applicant’s submission: ‘This reduces density, height and scale and in doing so also reduces the visual impact to private amenity areas and existing residential dwellings to the North’. However, I consider the improvement to open space 5 while meeting the BRE guide, does so in a marginal way. As I consider this an important space for the active amenity of the residents, I consider the quality could be improved further by the omission of one floor of the pop-up element of Block D, so that the overall height of

Block D would be 7 floors and 8 floors respectively. This could be addressed by way of condition should the Board be minded to grant permission.

- 3.4.6. I am mindful of the comments in relation to visual amenity area 6 and the greater difficulty in achieving the BRE guide in this instance given the layout of Block C and location of the entrance ramp to the car park. I note that the area has been significantly improved in terms of its quality and usability with the omission of the 4 storey side element of Block B, and given the overall improvements to the sense of space and quality of area 6, I consider that the changes proposed are, on balance, acceptable and that the marginal short fall of the BRE guide in this instance, given the position of this space in the open space hierarchy of the site as a visual amenity area, is acceptable.

### 3.5. **Quality of Residential Amenity and Open Spaces for Neighbouring Properties**

- 3.5.1. In relation to Item B of the Board's Direction, the following is stated: 'The applicant is requested to respond to this with further elaboration in its sunlight/daylight report Block F by either (a) omitting the end apartments proximate to this boundary, ie apartment nos. 12, 24, and 36, thereby increasing the separation distance to 11m and potentially mitigating the overshadowing impacts, or (b) submit further elaboration to justify the proposed design.
- 3.5.2. The applicant's response proposes a modification to Block F with the removal of three apartments. The applicant states the benefits to this approach are as follows:
- Increased separation distance enhances privacy and reduces the extent of shadow cast to neighbours;
  - Provides for the retention of Austrian Pine tree and Sycamore tree along this boundary while increasing green open space area as buffer to this edge;
  - Relocation of access stairs to the gable end provides for improved quality of central communal open space within Block F courtyard.
- 3.5.3. The observers from Silver Pines raised serious concerns at the OH in relation to the visual impact of the development, serious impact in terms of loss of sunlight and overshadowing, as well as concerns in relation to operational impact during the construction period.

- 3.5.4. I refer the Board to the following two documents submitted by ARC: 'Addendum Sunlight and Daylight Access Analysis' and 'Addendum no. 1 EIAR', which quantifies the improvement in terms of sunlight to the amenity space. It is stated on page 6 of the submitted document titled 'Addendum Sunlight and Daylight Access Analysis' as follows: 'Table 3 shows that the design changes to Block F suggested by An Bord Pleanála and now proposed by the Applicant are likely to improve sunlight access to Zone 15 (the garden to the rear of No. 25 Silver Pines) in the morning and over the course of the afternoon and to Zone 16 (the garden to the rear of No. 26 Silver Pines)'. I note the dwelling in Zone 16 is actually no. 24. The submitted Addendum no. 1 EIAR states on page 54 that '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'. The submitted Addendum no. 1 EIAR states on page 75 '...While the adjustments now proposed to the subject design are likely to result in a slightly lower impact on sunlight access to this rear garden than the design as originally submitted, there is no change in the extent of potential impact. The impact on this garden is assessed as "imperceptible" to "moderate" to "significant". However, it is noted that the adjusted proposal will result in a lesser impact during the mornings and early afternoon of 21st March than the originally proposed design'.
- 3.5.5. Upon questioning from the Inspector as to whether the removal of the relocated stairwell would improve the overshadowing effect, Ms Hastings of ARC considered this would be marginal.
- 3.5.6. Having considered the information before me, I am satisfied that the modifications, will result in an improvement for the residents of no. 25 and no. 24 Silver Pines and this change can be seen on the tables on page 74 and page 75 of the applicant's submission 'Addendum no. 1 EIAR'. I consider the redesign as submitted would be of benefit to the scheme. I consider the relocation of the stairwell is an unwelcome amendment which does not result in a separation distance to the boundary of 11m and I do not consider its relocation here was sufficiently justified as part of the amendment proposed. I note under the visual assessment in the submitted Addendum No. 1 EIAR it is stated that the shortening of Block F contributes to a meaningful overall reduction in the sense of built enclosure. The removal of the stairwell from this location would improve overshadowing on Silver Pines, however

marginal, as well as reduce the visual impact. This issue could be addressed by way of condition, should the Board be in agreement.

- 3.5.7. Overall, having considered all the information before me and the submissions by the applicant, and the observers, I am satisfied that the modifications put forward for consideration by the applicant would be positive.

### 3.6. **Visual Impact**

- 3.6.1. The applicant in the Statement of Evidence from OMP and associated document Oral Hearing Presentation has in sections 2 and 3 of their report elaborated on it's analysis and justification with respect to the height of the proposal in terms of its potential visual impact. I note the applicant has not provided a specific commentary in relation to the Planning Authority recommendation to omit Block F and floors from the other buildings as suggested by the Board Direction, however, the Board may consider this is inherently considered in overall consideration of the building height strategy as set out in section 2 and 3 of the submitted Statement of Evidence.
- 3.6.2. The applicant in section 4 of the Statement of Evidence has proposed modifications to the height in three places, ie to Block F, Block D and Block B.
- 3.6.3. Additional photomontages have been submitted by the applicant and the impacts assessed by Modelworks. I refer the Board in particular to Views 2, 3, and 4 in relation to view from Leopardstown Road; View 5 in relation to view from Leopardstown Road adjoining Sir Ivor Mall; View 12 in relation to Minstrel Court; View 11c-1 and View 11c-2 with regard to Silver Pines; View 11d with regard to the Anne Sullivan Centre; and View 10 and View 10b with regard to Leopardstown Lawn.
- 3.6.4. Residents are not satisfied with the level of photomontages submitted (see submissions attached, audio of oral hearing, and section 2.4 above). I note Leopardstown Lawn residents commissioned additional photomontages. I refer the Board to the View Verification report prepared by Future Realities, submitted with the submission from Adrienne O'Sullivan, which indicates views from Leopardstown Lawn, view from a rear garden along Leopardstown Lawn and view along the greenway of development blocks C, B and A, in addition to other view points.
- 3.6.5. Observers at the Oral Hearing, particularly those along Leopardstown Lawn, argue the photomontages submitted by the applicant misrepresent the development and

are misleading marketing material. It is raised that trees are indicated in the photomontages that cannot be retained.

- 3.6.6. The applicant in response (at the time of cross questioning on day 2) was of the opinion that the submitted photomontages from observers were inaccurate, the applicant's material is prepared to a high standard, are technical assessments not marketing material, and an extensive package of material is there for the Board to make a decision, including an EIAR and arboricultural report. The applicant comments that as trees were not raised in the limited agenda issued by the Board the arboriculturist is not present to comment on the scheme.
- 3.6.7. I note the submitted View Verification Report prepared by Future Realities on behalf of the observers differs from the applicant's photomontages in that they are taken from slightly different positions, include some new views, exclude vegetation from the majority of views, do not comprise the same finishes as proposed by the applicant, and the document is not accompanied by a Landscape and Visual Impact Assessment. I note the modifications proposed by the applicant at the OH are not included in the View Verification Report and this should be borne in mind by the Board when they are comparing the photomontages. I note under the methodology in the View Verification Report it is stated as follows: 'While we did our best to represent the 3d mass of the different blocks, we only had reference to the supplied PDF files and there was no opportunity to cross check the 3d model with the architects to ensure it exactly reflected their intention. In addition, because the 3d model was constructed in a very short timescale, we simplified the model as much as possible in terms of window/door details with our main focus being to accurately convey the overall scale and mass of the different blocks and ensure the levels were all correct. For survey information, we used the existing site survey data taken from the submitted drawings. We also combined this with a 3d existing context model created from Photogrammetry data. As both of those were 3rd party data sets we can not verify the accuracy. However we have no reason to believe it was inaccurate as both sets of data matched closely together when cross checked'.
- 3.6.8. I note the additional views of the development as per the View Verification Report along the greenway (view 5) and from the rear of houses at Leopardstown (view 1) are helpful in a basic way in demonstrating the scale and mass of the development from a different perspective (albeit I note that material finishes are not included,

boundary treatment is not as proposed nor is any vegetation shown which does not reflect the landscape plan). I have considered both photomontage reports submitted. The submission of the additional photomontages from the observers does not alter my view of the visual impact of the development in terms of height, scale, mass and design. On balance, I remain of the opinion that the visual impact is acceptable and that the site is capable of accommodating height as proposed and as considered in the modifications, while respecting adjoining residential amenity. I refer the Board to the Inspectors Report dated 10<sup>th</sup> January 2022.

3.6.9. I note the report 'Addendum No. 1 EIAR' on page 9 onwards relates to a 'Comparative Assessment of the Visual Effects of the Proposed Development and the Adjusted Scheme'. In relation to the modifications put forward, I am satisfied that the amendments will not have a negative impact in terms of the visual impact of the development. I refer the Board to section 3.1.3 of the report 'Addendum No 1 EIAR' in this regard as well as submitted photomontages.

3.6.10. I consider here further the amendment to the upper floor of Block B and whether, in the interests of visual amenity, a similar amendment to Block C should be considered. This is an issue which was considered on Page 20 of the report 'Addendum No 1 EIAR' which states as follows in relation to the View no. 10 of Leopardstown Lawn at Leopardstown Drive Junction and View 10b of Junction of Leopardstown Avenue and Leopardstown Lawn:

'The change of the top floor of Block B to a setback penthouse level would soften the building's profile and reduce its visual presence. In the adjusted scheme the same measure has not been applied to Block C. This is because Block C has frontage to Leopardstown Road and is intended to have a strong, urban character/presence in views. This view illustrates the gradation of scale and character from the west (Block A beside St Joseph's) to east (Block C) across the site. Another factor informing this approach is that the row of houses on Leopardstown Lawn curves away from the site towards the east, so that the houses in front of Block C are further from the development than the houses in front of Block B. Overall, the adjusted scheme would have very similar visual effect to the proposed development'.



3.6.11. Notwithstanding the rationale set out, I consider that Block C would be more consistent in form with the other blocks if its upper floor was also set back in a similar fashion to that now proposed for Block B as part of this OH, and such a measure would not in my opinion significantly alter the intended strong urban character of Block C along Leopardstown Road, but would ensure a more coherent design approach when viewed from Leopardstown Lawn and when view at the entrance to the greenway from Leopardstown Road. I therefore suggest to the Board a condition in this regard, which would ensure a consistent approach to the design modification to Block B proposed.

### 3.7. **Density, Height and Sustainability**

- 3.7.1. The applicant has, as per the Board Direction, submitted further photomontages/ CGIs, sunlight/daylight analysis in respect of proposed open spaces, and analysis of the capacity / frequency of the public transport network in consideration of potential reduced density and design modification impacts, as per previous points on the limited agenda.
- 3.7.2. The Board Direction states 'It is noted that concerns raised in the CE Report and in submissions around the impact that taller buildings on the subject site and that it would have an impact on the identity and legibility of Sandyford and Central Park as designated centres for future growth, potentially undermining the primacy of Sandyford District. Please provide further justification and elaboration, as applicable'.
- 3.7.3. The applicant in the submitted Statement of Evidence from OMP has considered under section 2 the '...emerging urban areas or districts of South County Business Park, Central Park and the fringes of Sandyford centre are all expanding and are in very close proximity to the site'. It is stated 'The site is located within the expanded core of Sandyford centre and comprises, South County Business Park and Central Park to the Southwest up to the M50 and stretching Northeastwards to the Sandyford Luas line and by extension, the old railway line now utilized as a greenways network which adjoins the site boundary to the East'. A selection of photos within the immediate surroundings along Leopardstown Road to the West are submitted to illustrate the 'emerging urban context and changing character of this district'. It is stated in the submission that these areas all support higher densities

and taller buildings as an accepted good practice approach to planning, compact development and sustainable use of our land resource. It is stated that Central Park provides for buildings ranging in height from 8-12 Storey's. By comparison, 'The Grange' residential development to the Northeast at the end of Brewery Road at the junction with the N11 is stated to support buildings in the range from 7-11 Storey's in height.

3.7.4. Observers in their submissions object to the comparison of this area with Sandyford and consider the 1-2 storey suburban character of this infill area is distinct and separate from the Sandyford area, should not support buildings of the height proposed which are urban and not suburban in form, and should respect existing residential amenity and the suburban character of this infill pocket of land, having regard to the immediate context and not that of Sandyford/Central Park.

3.7.5. I refer the Board to the Inspector's Report dated 10th January 2022 in relation to density and height. For clarity, I consider the site in terms of the Apartment Guidelines 2020 to be an Intermediate Urban Location, on the basis of proximity to two Luas stops and is appropriate for apartment developments of a high density. I note the applicant's submission indicates modifications proposed will reduce the proposed density from 179 dwellings per hectare to 166 dwellings per hectare. I consider that this remains compliant with minimum density guidance available, noting that no upper density is applicable to the site and the impact of density is subject to assessment against other planning criteria, and I refer the Board in this regard to the previous Inspector's Report, which should be read in conjunction with this report. I consider the amendment to the density figure acceptable.

3.7.6. I consider the site is separate to Sandyford, however, it is influenced by existing government policy for compact growth and should be considered in this context and that of the evolving suburban-urban landscape of the wider area, while being assessed on balance against existing residential amenity. I consider on balance the modifications as proposed by the applicant would be of benefit to the scheme and should be implemented.

3.7.7. The Board Direction states 'While the Board note that the subject site is located within 600m-700m of two Luas stops (ie. high capacity public transport stops) and high frequency bus services within approx. 1km of the site on the N11, and that the

site is highly connected in terms of walking/cycling facilities and within walking distance of significant employment locations, local shops/services, and amenities, the applicant may wish to further elaborate on the suitability of the site in respect of access to 'high capacity' and 'high frequency' public and sustainable transport modes, as well as services and employment'.

- 3.7.8. The applicant in response to the Board Direction has submitted a report from ILTP (summarised above in section 2) which addresses public transport and considers the site within the context of both a 'Central and/or Accessible Urban Location' and 'Intermediate Urban Location'. The OMP report considers it a Central and/or Accessible Location'.
- 3.7.9. Observers dispute distances to public transport, capacity of public transport to cater for this and other SHD developments along the line, and the frequency of public transport, as well as the lack of proximity of the site to local shops/services and amenities, and consequential impact considered by observers requiring improved public transport, in addition to additional parking spaces for future residents.
- 3.7.10. I refer the Board to the Inspectors Report dated 10th January 2022 in relation to public transport. I note that there are variations to the suggested distances to the Luas between the observers and the applicant, which arise from a difference in the starting point of measurement taken and whether the most direct pedestrian route was applied. I am satisfied that the distances as set out in the Inspectors Report dated 10<sup>th</sup> January 2022 (measured using GIS mapping) are accurate and the site is (notwithstanding differences in the measuring points) within 1km of two Luas stops, which is identified in the apartment guidelines as being within a reasonable walking distance of a high capacity public transport stop.
- 3.7.11. I note from the timetabling relating to the Luas that it is high frequency, with services during peak times at an average of 3-5 minutes. I have considered evidence in relation to the operating capacity of the Luas by both Martin Lavelle and Christy O'Sullivan. I note in the submission from ILTP that some of the existing green line trams have been increased to 55m length to increase the capacity to 408 passengers per tram and there has been a major expansion of the Sandyford Depot, to facilitate the growth in the green luas line. ILTP calculate that the range of 2-5 min frequencies, can accommodate 4404 persons per direction per hour (pdph) – 11010

pdph. I am satisfied from the evidence presented by ILTP that the Luas is high frequency and is high capacity. I note in terms of capacity that some of the Luas services start at Sandyford therefore capacity will not be used up in all instances at the start of the line. ILTP states they undertook an AM peak survey, and observed the longer trams are in operation and there was capacity on the trams. I note the bus services adjoining the site are not 'reasonably frequent' (as per description under Intermediate Urban Locations within the Apartment Guidelines 2020, which for clarity I consider this site to be), however, the site is within 1km of high frequency services on the N11 'or where such services can be provided'. Given the number of buses using the N11 route, as well as the high frequency nature of the 46A (as per table 3.2 of the ILTP submission, noting also the table on slide 41 submitted by the residents of Silvers Pines in their submission and concerns that only the 46A is high frequency), I am satisfied that as per the submission from ILTP which calculates numbers per bus (with a bus capable of accommodating 540 pdph at 10 min intervals and 1080 pdph at 5 minute frequency), the bus services on the N11 would provide for a high frequency service as an alternative to the Luas within 1km of the site and no evidence of issues with the capacity of bus services on the N11 has been presented. I would note the apartment guidelines do not suggest that a site has to be both within walking distance of a high-capacity urban public transport stop of a Luas, as well as within walking distance of a high frequency urban bus services. I am satisfied that the location of the site is suited to apartment development having regard to proximity and accessibility considerations related to the Luas. In relation to the Building Height Guidelines and criteria 3.2, the first point to be considered at the scale of the relevant city/town is as follows: 'The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport'. On the basis of the proximity of the site to the Luas and capacity assessment of the Luas as submitted by ILTP, I am satisfied that the existing service is high capacity and is frequent. I further note there are good links from the Luas to other locations, where there are interconnections with other bus services and from the site via walking to other modes, which can connect to the DART line and connect to other destinations where there are connections to the wider bus network.

### **3.8. Conclusion**

- 3.8.1. I have assessed all modifications proposed and I consider they bring additional benefits to the scheme over the original proposal and therefore should be implemented. I recommend conditions in this regard.
- 3.8.2. All other matters in relation to this application were assessed by me under the previous Inspector's Report dated 10<sup>th</sup> January 2022.
- 3.8.3. I consider hereunder some other matters which arose in consideration of the modifications proposed by the applicant at the Oral Hearing.

### 3.9. Other Matters

#### 3.9.1. EIAR

I have assessed the information submitted by the applicant, including the document 'Addendum No. 1 EIAR', and submissions from observers at the Oral Hearing, in addition to the information which formed part of the original EIAR submission. Notwithstanding the title of this report as 'Addendum No. 1 EIAR', the information submitted in my opinion does not constitute significant additional data for the purposes of EIA.

Having regard to the EIAR, as considered in the previous Inspector's report dated 10<sup>th</sup> January 2022, and all submissions made at the Oral Hearing on the 8<sup>th</sup> March 2022, it is my view that the environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed. I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

#### 3.9.2. Appropriate Assessment

I have assessed the information submitted by the applicant and observers at the Oral Hearing, in addition to the information contained in the original application relating to appropriate assessment and the submitted Screening Report for Appropriate Assessment (dated July 2021).

The amendments proposed by the applicant, which reduce the number of units proposed and reduces the footprint of Block B, and the height of Block D does not have an impact in terms of appropriate assessment issues.

I consider it reasonable to conclude on the basis of the information on the file, and the information as submitted at the Oral Hearing on 8<sup>th</sup> and 9<sup>th</sup> March 2022, all of

which I consider adequate in order to carry out a Stage 1 Screening for Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of 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.

#### 3.9.3. Time Frame Associated with the Oral Hearing

In accordance with Board Direction BD-009853-22 and having regard to the provisions of Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended and Sections 134 and 135 of the Planning and Development Act 2000 as amended, the Board has directed, in view of the particular circumstances of this case, that an Oral Hearing be held, on the basis of a limited agenda as per Board Direction BD-009853-22. The limited agenda was issued to all parties in advance of the hearing. The applicant was requested to put on line all information to be presented at 10am the day before the Oral Hearing. I am satisfied that all parties, including myself, had access to the material submitted by the applicant in advance of the Oral Hearing.

Under Section 135 of the P&D Act 2000, as amended, the Board has a duty to deal with the hearing as expeditiously as possible. I am satisfied the Hearing was conducted fairly in accordance with the relevant legislation.

#### 3.9.4. Consultation

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.

#### 3.9.5. SHD Legislation and Preliminary Objection

Mr. Sheehan, Barrister on behalf of John Conway and Louth Environmental Group, made a 'preliminary jurisdictional objection' to the hearing. Mr. Sheehan stated the agenda circulated on 7<sup>th</sup> February 2022 essentially invites or requests the applicant to provide further information and/or revised plans in respect of the development. Mr. Sheehan stated there is no provision under the 2016 Act for the Board to request

further information or revised plans, therefore the Board doesn't have the jurisdiction to request or consider those revised plans as part of this Oral Hearing.

This application has been made to the Board under Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. Having regard to Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board, may in its absolute discretion and having regard to the specific circumstances of the case, hold an oral hearing. The Board under direction BD-009853-22 considered that further elaboration in respect of a number of issues would assist the comprehensive and complete assessment of the proposed development to ensure that all potential impacts are clearly identified and assessed and decided to hold a limited agenda Oral Hearing to address concerns regarding a number of specific matters. I am satisfied the Oral Hearing has been conducted in accordance with the legislation and that the applicant has adequately elaborated on the issues as directed by the Board.

#### 3.9.6. Virtual Oral Hearing

A full recording of the OH recording is available for the Boards consideration.

Concerns were raised about the conducting of the Oral Hearing virtually. I note the legislation (Section 134 and 135 of the Planning and Development Act 2000, as amended) does not dictate the manner or location of an oral hearing nor does it specifically preclude the holding of an oral hearing using virtual means. I am satisfied that the parties participating remotely had access to myself as the Inspector as had the applicant and the hearing was recorded as would be the case as if they were physically present, and questioning was facilitated. All persons wishing to access the process were facilitated. I am satisfied that this is an acceptable and appropriate method of conducting the oral hearing in respect of this case given the on-going presence of Covid 19, and the over-riding imperative to protect the health and welfare of Board staff and participants in the hearing.

#### 3.9.7. 6 Sir Ivor Mall

Owners of 6 Sir Ivor Mall through their agent Ray O'Malley raise concern that the extension permitted and constructed at 6 Sir Ivor Mall is not included in the applicant's drawings showing their house.

In cross questioning, the applicant's agent Suzanne McClure stated that there was attention to mislead and the Board can consider the submission from 6 Sir Ivor Mall separately.

I refer the Board to the Inspector's Report dated 10<sup>th</sup> January 2022 in this regard.

#### 3.9.8. LauraLynn Childrens Hospice

Observers raised concerns in relation to LauraLynn Children's Hospice. I note the CEO of LauraLynn noted that four bedrooms face the direction of the application site and concerns were raised in relation to amenity of the garden areas, visual impact of the development and overlooking of the hospice. ARC was questioned at the Oral Hearing in relation to the rating applied to the impacts on LauraLynn. It was stated that there is no guidance available for sensitive uses, therefore a precautionary approach was applied. I refer the Board to the Inspector's report dated 10<sup>th</sup> January 2022 in this regard.

#### 3.9.9. Solar Dazzle

One observer raises an issue of solar dazzle. As per the BRE guide, solar dazzle is only a long term problem for some heavily glazed or mirror clad buildings. Based on the information presented and my review of the drawings submitted, it is unlikely the buildings as set out in the submitted drawings will cause solar dazzle.

While one observer raises a potential issue of surrounding buildings being able to use solar panels, from the results of the sunlight and daylight analysis and overshadowing drawings presented, I do not consider the development will result in a likely significant impact in this regard.

#### 3.9.10. Car Parking

A number of observers raised concerns in relation to car parking standards applied and impact of limited car parking on the surrounding area, which was linked to public transport capacity and frequency. I have addressed this issue in the Inspector's Report dated 10<sup>th</sup> January 2022, and I have nothing further to add in this regard.

#### 3.9.11. Material Contravention – Car Parking

I wish to elaborate on Section 11.13.15 of my original report to the Board dated 10<sup>th</sup> January 2022, which relates to car parking and material contravention. In accordance with Section 8.2.4.5 of DLR county development plan, I consider the site



appropriately located for consideration for reduced car parking standards. I state in my report dated 10<sup>th</sup> January 2022 that ‘maximum parking standards are given in the development plan and the proposal does not exceed those maximums’. I note that as per section 8.2.4.5 of the development plan, the reduced parking criteria to be applied relates to residential and non-residential use, whereas under table 8.2.4, the maximum car parking rates relate to non-residential use and under table 8.2.3, the car parking rates are referred to ‘standards’. I consider that a ‘standard’ is not absolute in its application, and other sections of the operative development plan acknowledge that the ‘standard’ can be reduced in certain circumstances, as specified under S.8.2.4.5, therefore there is scope for alternatives to the figures given in table 2.3.4 of the development plan. I remain of the opinion that a material contravention issue does not arise in relation to car parking given the flexibility in the development plan in this regard.

#### 4.0 Conclusion and Recommendation

- 4.1.1. I refer to my previous report and recommendation on this application dated 10<sup>th</sup> January 2022, which set out a number of conditions.
- 4.1.2. On foot of the oral hearing proceedings and the evidence presented therein, I conclude that the amendments proposed by the applicant should be implemented as presented, save for the final arrangement of the stairwell to Block F, and my recommendation for an additional amendment to Block D.
- 4.1.3. I conclude therefore that condition 1 and 3 be amended from that set out in the Inspector’s Report dated 10<sup>th</sup> January 2022, as set out hereunder.

#### 5.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars uploaded on the applicant’s website on 7 <sup>th</sup> March 2022 and submitted prior to the Oral Hearing on the 7 <sup>th</sup> day of March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed
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	<p>with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanala for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Prior to commencement of any works on site, revised details shall be submitted with regard to the following:</p> <ul style="list-style-type: none"> <li>a. 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 top floor level to Block B and C shall comprise a setback penthouse arrangement.</li> <li>c. One full floor of the primary element of Block D shall be omitted in addition to the upper floor of the pop up element, with revised plans submitted accordingly.</li> <li>d. 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>e. The northeastern end of Block F closest to the boundary with no. 25 Silver Pines shall be amended to omit the end apartment units of no. 12, no. 24 and no.36. The remaining area shall be incorporated as open space and a revised design addressing the location and design of the stairwell serving the apartment block, including windows to the stairwell where appropriate, shall be submitted.</li> <li>f. 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</li> </ul>

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.

- g. 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.
- 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. 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.
- q. Full details of privacy screens between balconies of the apartments.
- r. Full details of green roofs to the apartment buildings, bin and bike stores.

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.

	<b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.
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Una O'Neill

Senior Planning Inspector

15<sup>th</sup> March 2022