



An
Bord
Pleanála

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

Inspector's Report ABP-311722-21

Strategic Housing Development

Demolition of the existing building on site, construction of 190 no. Build to Rent apartments and associated site works.

Location

Former Siemens Site, Corner of Blackthorn Avenue and Ballymoss Road, Sandyford Industrial Estate, Dublin 18. (www.siemenssiteshd.ie)

Planning Authority

Dun Laoghaire Rathdown County Council

Applicant

Palemink Limited

Prescribed Bodies

Department of Defence

Irish Water
Transport Infrastructure Ireland

Observer(s) None on file

Date of Site Inspection 3rd December 2021

Inspector Sarah Moran

Contents

1.0 Introduction.....	4
2.0 Site Location and Description	4
3.0 Proposed Strategic Housing Development	5
4.0 Planning History.....	7
5.0 Section 5 Pre Application Consultation	9
6.0 Relevant Planning Policy	14
7.0 Third Party Submissions	35
8.0 Planning Authority Submission	35
9.0 Prescribed Bodies.....	49
10.0 Assessment.....	50
11.0 EIA Screening	114
12.0 Appropriate Assessment	118
13.0 Conclusion and Recommendation	127
14.0 Recommended Board Order	128

Appendix I: EIA Screening

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site (known as the former Siemens site) is located in the built up area of Sandyford, Co. Dublin and has a prominent location at the junction of Blackthorn Avenue and Ballymoss Road, immediately opposite the Stillorgan Luas stop and park and ride facility. The site is also opposite the signalised junction of Blackthorn Avenue, Blackthorn Drive and St. Raphaela's Road. This area is currently undergoing transformation from low rise industrial, employment and office uses to higher density residential and mixed use developments. The 'Beacon South Quarter', a mixed-use development of residential, commercial and retail land uses is located nearby to the south west of the site on the southern side of Carmanhall Road.
- 2.2. The site has a stated area of 0.377 ha. It is disused and overgrown and is currently occupied by a single storey commercial building with surface car parking. There is an existing vehicular access to Ballymoss Road at the eastern side of the site. The stated site area includes 0.11 ha in the ownership of Dun Laoghaire Rathdown County Council (DLRCC) at the road frontage and 0.0056 ha in the ownership of the adjoining landowner to the west (part of the development known as Sandyford Central). The site is flat and generally level with the adjoining roads but has a lower ground level than the adjoining site to the west. The immediate surroundings of the site reflect the ongoing changing nature of Sandyford and include a temporary school to the immediate south (Goatstown Stillorgan Educate Together N.S.), the three storey headquarters of the Royal College of Surgeons of Ireland (RCSI), a ten storey apartment building and 4/5 storey office buildings, all on Ballymoss Road. There are also several permitted/completed larger SHD apartment schemes to the west of the site at Blackthorn Drive and Carmanhall Road, including Sandyford Central, the Rockbrook development and the Sentinel building, which generally have mixed use units at ground floor level.

3.0 Proposed Strategic Housing Development

3.1. The following key parameters of the development are noted:

Site Area	0.377 ha
Residential Units	216 BTR units
Total Gross Resi Floorspace	13,642 sq.m.
Building Height	Up to 17 storeys
Residential Density	c. 504 units/ha gross c. 711 units/ha net (excluding DLRCC owned lands)
Site Coverage	46%
Plot Ratio	1:5
Aspect (apartments)	37.3% dual aspect
Public and Communal Open Space	Public plaza open space 565 sq.m. Garden amenity space 207 sq.m. Communal residential amenity space 1,223 sq.m.
Childcare	None proposed
Part V	Lease of 10% (19 no. units) of the BTR apartments to the PA
Roads / Vehicular / Pedestrian Access	Vehicular and bicycle access from Ballymoss Road via a basement ramp
Car and Cycle Parking	59 no. basement car parking spaces (54 no. residents spaces, 5 no. office spaces) Car parking ratio of 1:0.28 units 474 no. bicycle parking spaces (432 at basement and 42 no. surface spaces)
Non-residential uses	Office 518 sq.m. Restaurant 232 sq.m. Gym 163.5 sq.m. Café kiosk 25 sq.m.
Residents Support Facilities, Services and Amenities	Management area 21 sq.m. Parcel store 36 sq.m.

	<p>Study workspaces 29 sq.m.</p> <p>Multipurpose room 166 sq.m.</p> <p>Soft multipurpose room / play area 98 sq.m.</p> <p>Associated storage area 111.6 sq.m.</p> <p>Entrance foyer / concierge 133 sq.m.</p> <p>Roof pavilions 68.4 sq.m.</p> <p>Bicycle service station 31 sq.m.</p> <p>Total resident amenity area 465.4 sq.m.</p>
Ancillary Development	<p>Demolition of existing structures on the site</p> <p>ESB substation</p>

3.2. The development comprises 190 no BTR apartment units as follows:

Unit Type	No. of Units	%
1 bed	92	49%
2 bed	86	45%
3 bed	12	6%
Total	190	

3.3. The development comprises a pair of parallel blocks laid on a roughly north/south axis, with the gable ends facing Blackthorn Avenue. Block 1, to the west, is 15 storeys and Block 2, to the east, is 14 storeys. The blocks are linked by a single storey structure at ground level. The layout incorporates a public plaza at the northern end of the site, facing the junction of Ballymoss Road and Blackthorn Avenue, which includes a café kiosk.

3.4. The application includes a draft Section 47 Agreement between the applicant and Dun Laoghaire Rathdown County Council (DLRCC), which states that the developer agrees with the Council to restrict and regulate the development for the period of 15 years from the date of the planning permission, such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold or rented separately.

3.5. The application is accompanied by a Material Contravention Statement, an EIA Screening Report and an AA Screening Report.

4.0 Planning History

4.1. Development Site **PL06D.220449 D06A/0893**

4.1.1. Both DLRCC and the Board refused permission for an application to demolish all existing buildings on site and to construct a 20 storey mixed-use development comprising retail space, office space and 71 no. residential units and all ancillary works. The Board's refusal reasons related to (1) proposed quantum of development would militate against the land use zoning objective for the area and conflict with the vision of the planning authority for a high quality and accessible environment; (2) development would be premature by reference to (a) road capacity; (b) deficiency in the provision of public transport facilities; (c) deficiency in the provision of foul sewerage facilities and (d) deficiency in the provision of recreation/amenity facilities, and the period within which the constraints involved might reasonably be expected to cease; (3) in the absence of a settled planning context for the Sandyford Business Estate, with particular reference to the development of high buildings, the Board is not satisfied that Block 0 would not represent a piecemeal approach to the development of high buildings in the area.

4.2. Adjoining Site to South (**Grafton House**)

4.2.1. ABP-303425-19 D18A/1003

DLRCC refused permission refused for a proposal to demolish an existing two-storey warehouse/office building and to construct a new 6,755 six-storey over basement hotel. A first party appeal to ABP was withdrawn.

4.2.2. D18A/1210

Temporary 5 year permission granted for a two storey primary school (c.822.10 sqm). This permission has been implemented and Grafton House is currently in use as the Goatstown Stillorgan Educate Together National School.

4.2.3. ABP-310690-21 D21A/0295

DLRCC refused permission for demolition of an existing two-storey warehouse/office building and construction of an up to nine storey aparthotel consisting of 124 no. suites with associated ancillary support facilities at ground floor including café (83 sq. m. GFA), gymnasium (25 sq. m. GFA), multi-purpose room (26 sq. m. GFA), administration and back of house facilities over a basement car park. DLRCC refused for four reasons relating to (1) insufficient levels of residential amenity to guests / occupants of the building; (2) impacts on residential amenities and contravention of Objective BH2 and section 3.2.1 of the SUFP; (3) traffic hazard at access to Ballymoss Road; (4) proposed height is 50% higher than the maximum permitted under the SUFP, failure to comply with development plan policy UD1 and with the Council's Building Height Strategy. A first party appeal to the Board is currently pending.

4.3. **Adjacent Site to West (Former Aldi Site / Sandyford Central)**

4.3.1. ABP-305940-19

Permitted SHD comprising demolition of existing structures on site and construction of 564 no. BTR apartments up to 17 storeys, crèche and associated site works to the immediate west of the development site, with frontage to Blackthorn Avenue. Works are currently underway at the adjoining site and the adjoining development is described as the 'Sandyford Central' development in the documentation on file.

4.4. **Other Adjacent Developments at Sandyford**

4.4.1. ABP-304405-19 Rockbrook

SHD application for 428 no. apartments, 4 no. retail units and a crèche in 2 no. blocks of 5-14 storeys on a site of 2.02 ha located to the west of the development site, with frontage onto Carmanhall Road. Permission granted in August 2019.

4.4.2. PL06D.303738 D18A/0785 Beacon South Quarter

Permission granted by the Board in June 2019 for a development at Beacon South Quarter comprising a mixed use development ranging in height from 1 to 14 storeys to accommodate 3 no. neighbourhood retail units, crèche and 84 apartments including 12 no. 1 bed units and 59 no. 2 bed units served by 65 car parking spaces.

5.0 Section 5 Pre Application Consultation

5.1. Pre-Application Consultation ABP-308298-20

5.1.1. The pre-application consultation related to a proposal to construct 216 no. BTR apartments, office, restaurant and a café at the site. A section 5 consultation meeting took place on 11th February 2021 between representatives of ABP, the planning authority, and the prospective applicant. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, the Board issued an Opinion on 22nd February 2021 that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development.

5.1.2. The issues raised were as follows:

1. Height and Placemaking

Further consideration/justification of the documents as they relate to the Dun Laoghaire Rathdown Development Plan 2016-2022, specifically Appendix 15: Sandyford Urban Framework Plan, in relation to the scale, height, and design of the proposed development and the potential impact on the adjoining sites and surrounding environs of Sandyford. While increased residential densities and changes to the townscape in terms of higher elements and taller buildings at this location may be appropriate, the applicant is required to provide adequate rationale and justification to support such additions to the area, including further consideration/justification of the documents as they relate to the potential visual impact of the development and its interaction with adjacent permitted development to the west and underlined by greater consideration of stated objectives in the local plan regarding notable building design and urban plazas. The further consideration/justification should address the proposed design and massing, inter alia the visual impact, and relate specifically to the justification for any material contravention of the plot ratio and height strategy in the development plan, reference should be made to legibility, visual impact, and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018). The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

2. Residential Amenity

Further consideration/justification of the documents as they relate to the residential amenity strategy for the proposed scheme. The twin block layout outlined for the site should ensure adequate levels of residential amenity for future occupants. In this context the documentation should appropriately and reasonably describe and illustrate good levels of sunlight and daylight penetration to the courtyard amenity spaces north and south of the blocks and illustrate the comfort index and usability of roof terraces and private balconies located at upper levels. In terms of the wider amenity, convenience and public realm, the documentation should demonstrate how apartment block positioning and articulation will assist with activated and comfortable street frontages around the site. All in the context of assisting modern placemaking and improving the overall quality of the urban environment at this key and notable location. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

5.2. Applicant's Response to Pre-Application Opinion

5.2.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information/documentation submitted as specified in the ABP Opinion. The submitted Architectural Design Rationale and Landscape Design Statement also provide responses to the issues raised in the pre-application Opinion. The matters addressed in the applicant's documentation may be summarised as follows.

5.2.2. Response to Height and Placemaking Issues

- The proposed scheme is a well-considered, high quality development that responds to its location as a focal point of a new proposed plaza facing a public transport node. The scale and height create legibility to the area as a gateway into the Sandyford Business District.
- The proposed scale and height reflect the permitted building height at the adjoining Sandyford Central site. The development creates an orderly transition in height and scale between Sandyford Central and adjoining areas.
- It is submitted that implementing the six storey height provided for at the site under the SUIFP would result in an extraordinary drop in height adjoining

Sandyford Central, which would be visually incongruous. A lower height at this location would also mitigate against the provision of a focal point at this gateway to Sandyford location, as per related SUIP objectives.

- The form and massing, choice of materials and proposed detailing of the proposed blocks enhance the environment, creating buildings of notable design and visual interest which act as a marker for the local area, as required by the SUIP.
- The development layout ensures that all areas and apartments get appropriate levels of sunlight and daylight throughout the site. The positioning of the blocks and the kiosk building create a sense of enclosure to the new public plaza.
- Potential impacts on adjoining sites have been carefully considered including the boundary treatments, the distance between the blocks and the orientation of the buildings to ensure minimal impact on the existing and permitted developments in the surrounding area. The proposed blocks have been moved further away from the boundaries to the west and south. The proposed boundary treatments ensure that the site is integrated with the area and has appropriate treatment to the neighbouring sites.
- The proposed plaza at the junction of Ballymoss Road and Blackthorn Avenue provides a new attractive landscape opposite this transportation node and gateway into the Sandyford Business Estate. The plaza has been designed such that it can act as a standalone development if the vision of the SUIP is not realised but it is also designed to fit in with any future potential development of a plaza in this location should the site to the east be brought forward for development.
- The application includes a Landscape Visual Impact Assessment (LVIA), which assesses the development both standalone and in terms of cumulative impacts with surrounding developments. The LVIA identifies that predicted impacts are a significant change from the existing single storey building at the site, however, the development is deemed to be consistent with the existing surrounds and developing trends at the Sandyford Estate has good transport links and also supports considerable employment opportunities. The buildings will create a notable entrance to the Sandyford Estate. The replacement of a vacant derelict

two storey building with new well designed, attractive buildings with a high quality landscaped plaza would also be a positive addition to the area. The cumulative views show that while the proposed development and the adjoining permitted development are eminently visible in views from the north, the emerging trends in residential increased density and subsequent building heights in areas that are well served by public transport mean that taller buildings are becoming the norm.

- The applicant is advised to explore the potential creation of a pedestrian link with Sandyford Central. The submitted design rationale states that a pedestrian connection cannot be readily achieved to Sandyford Central due to a significant change in level at this boundary. It is also submitted that the adjoining landowner has not expressed any interest in facilitating a connection of this kind.
- The proposed blocks have been moved 7.9m (Block 1) and 8.2 m (Block 2) away from the southern site boundary. Only opacified non openable windows are proposed on the southern gable elevations.
- The applicant has redesigned and repositioned the basement as advised in the pre-application Opinion.

5.2.3. Response to Residential Amenity Issues

- All of the proposed amenity spaces have been designed with regard to wind/microclimate analysis and Daylight and Sunlight penetration to ensure that they are of high quality, appropriate to the site and its location, and are comfortable and pleasant places.
- The scheme provides a higher quantum of residential amenities per square metre than other BTR developments in the area. All of the apartments are 10% larger than the quantitative requirements of the Apartment Guidelines and provide a significant amenity to the future occupants of this development. In addition, the proposed apartment balconies are larger than the requirements of the Apartment Guidelines. All of the balconies have good access to daylight and sunlight and will be attractive, comfortable additions to the apartments. It is also noted that SPPR 8 (ii) allows for flexibility in the provision of private amenity space.
- Sunlight and Daylight penetration. The parallel arrangement of the blocks maximises sunlight and daylight penetration to both the amenity spaces and the

private spaces, and to all facades. As demonstrated by the submitted Daylight and Sunlight Report, all of the ground floor amenity spaces receive greater than two hours sunlight in both the public and communal open space areas.

- The roof terraces have been designed to provide additional external residential amenity. The majority of these spaces are south facing and are appropriate for long term sitting as per the wind/microclimate analysis.
- The public facing edges of the development have been designed to ensure that they are at a human scale, are comfortable in terms of wind speeds and daylight, and are activated. The mix of uses at ground floor level, including a gym and restaurant in Block 2 and an office in Block 1, along with the inclusion of a café kiosk and access to the apartments will create a busy pedestrian environment which has high levels of surveillance both from the commercial activities and the residential element above. This in combination with its location directly opposite the Luas stop, and beside Ballymoss Road, a central pedestrian artery into Sandyford will make this an attractive busy space.
- The design of the plaza has been carefully considered in the context of the numerous different uses at ground floor level. The space will accommodate the movement of people, while also providing a sitting area outside the restaurant. It also provides an incidental semi-private space behind the kiosk and overlooked by the offices and residential reception, which can be used as an amenity for office workers.
- The proposed design aims to balance the development proportionately with the surrounding development, while also providing visual interest, activity and buildings of note on the site. The use of distinctive metal panels and glazing applied to all street frontages enables the development to have a high quality, low maintenance and durable finish. It also is applied to all frontages and the buildings engage with the public realm in an active manner. The result is a clearly recognisable, coherent identity that works at a neighbourhood, local and street level and can accommodate the future proposals for the area as identified in the SUFP including the new public plaza, should it come to fruition.

6.0 Relevant Planning Policy

6.1. Section 28 Ministerial Guidelines

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Design Standards for New Apartments Guidelines for Planning Authorities (as updated 2020)
- Design Manual for Urban Roads and Streets (DMURS)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) 2009
- Childcare Facilities Guidelines for Planning Authorities
- Urban Development and Building Heights Guidelines for Planning Authorities

6.2. Project Ireland 2040 National Planning Framework

6.2.1. The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 3(b) To deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway, and Waterford, within their existing built-up footprints.

NPO 4 To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 11 In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and

activity within existing cities, towns, and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 13 In urban areas, planning, and related standards, including height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 27 Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

NPO 33 Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO 35 To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.3. Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031

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

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

RPO 5.3 Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4 Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5 Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

- 6.3.2. In addition to the above, section 4.4 of the EMRA RSES states that there is potential for significant re-intensification of employment lands within the M50 ring, including at Sandyford Business District, to complement the Docklands and city centre business district. Section 5 of the RSES sets out the Dublin Metropolitan Area Strategic Plan (MASP), which envisages the consolidation of Dublin City and suburbs. Section 5.4 identifies strategic residential, employment and regeneration development opportunities on strategic development corridors including the Metrolink - LUAS Corridor (Metrolink, LUAS green line upgrades) with proposed upgrades to the existing LUAS Green line to support development in the south county at Sandyford, Cherrywood and Ballyogan. RSES Table 5.1 'Strategic Development Areas and Corridors, Capacity Infrastructure and Phasing' also refers to new emerging mixed-use centres at Sandyford.

6.4. Dun Laoghaire Rathdown County Development Plan 2016-2022

- 6.4.1. The site is zoned 'MOC', with the objective 'To provide for a mix of uses, which complements the inner core, but with less retail and residential and more emphasis on employment and services' as indicated on development plan Map 6. Residential development is 'open for consideration' under this zoning objective. According to development plan Table 8.3.17, residential development in 'MOC' lands shall accord with the policy for residential within the Mixed-Use Core Areas as outlined in the Sandyford Urban Framework Plan (SUFP).
- 6.4.2. The site is subject to Specific Local Objectives 109 and 121:
- SLO 109 To seek the provision of a use that animates the street corners e.g. Hotel/Apart Hotel at north western end of Ballymoss Road at the junction with Blackthorn Drive.
 - SLO 121 To ensure the provision of pocket parks and civic spaces in accordance with locations specified on Map 1 and Drawing no. 10 of the Sandyford Urban Framework Plan.
- 6.4.3. Sandyford is identified as a Secondary Centre in the Core Strategy for the county. Section 1.2.5.1 identifies Sandyford Business District as one of eight primary growth nodes from which a significant portion of the supply of residential units will derive up to 2022. Section 1.3.5.2 refers to the Sandyford Urban Framework Plan, which puts forward a coherent, plan-led strategy to ensure the considered development of the Sandyford Business District - primarily as an employment area but with complementary mixed-uses including residential, commercial, retail and open space.
- 6.4.4. The following development plan policies on residential development are noted in particular:

Policy RES3: Residential Density

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas
- Urban Design Manual – A Best Practice Guide
- Quality Housing for Sustainable Communities
- Irish Design Manual for Urban Roads and Streets
- National Climate Change Adaptation Framework – Building Resilience to Climate Change

Policy RES4: Existing Housing Stock and Densification

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

Policy RES7 Overall Housing Mix

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

Policy RES14 Planning for Communities

It is Council policy to plan for communities in accordance with the aims, objectives and principles of ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual – A Best Practice Guide’. In all new development growth areas, and in existing residential communities it is policy to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments and proposed renewal/redevelopment areas, in accordance with the concept of sustainable urban villages outlined under Policy RES15.

Policy ST11 Public Transport Improvements

It is Council policy to secure improvements to the public transport system as set out in ‘Smarter Travel, A Sustainable Transport Future 2009-2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’ by optimising existing or proposed transport corridors and interchanges, including increased densification and

consolidation along strategic public transport corridors and close to public transport nodes to encourage greater usage of public transport.

- 6.4.5. Development plan Chapter 8 provides guidance on urban design, including section 8.2.3 providing development management standards for apartment developments. The plan includes an Advisory Note, which states that the standards and specifications in respect of apartment development as set out in section 8.2.3.3. (i), (ii), (v), (vii) and (viii) have been superseded by the Apartment Guidelines, including the mandatory SPPRs within same. The SPPRs of the Apartment Guidelines take precedence over the development plan standards and specifications as set out in Section 8.2.3.3. The following policies are also noted in particular:

Policy UD1: Urban Design Principles

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

Policy UD6: Building Height Strategy

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County. The principles are set out in Appendix 9 of the County Development Plan.

6.5. Development Plan Appendix 9 Building Height Strategy

- 6.5.1. The development plan Building Height Strategy section 3.1 deals with Sandyford Business District. It states:

The Sandyford Urban Framework Plan (SUFP) sets building height limits across Sandyford Business District. The building height limits have been established through a considered assessment of location and character of an area and proposed land use. At strategically identified locations, the SUFP allows for the design of buildings or elements of buildings to exceed the generally permitted height by one or two storeys.

The stated building height limits in the SUFP do not represent a ‘target’ height for each site – it is essential that any building makes a positive contribution to the built form of the area. It is intended that building height shall, therefore, be determined by how it responds to its surrounding environment and be informed by location; the function of the building in informing the streetscape; impact on open space and public realm (in particular shadow impact), impact on adjoining properties; views into the area and long distance views.

The Building Height Strategy also states a policy to consider additional heights over the height limits as indicated in locations identified on SUFP Map 3 of the Plan. On sites other than the Blackthorn Road site, increase in building height shall be limited to one to two storeys above the height limit.

6.6. Development Plan Appendix 15 Sandyford Urban Framework Plan

6.6.1. The SUFP was originally adopted as a variation to the County Development Plan 2010-2016 and now forms Appendix 15 of the current County Development Plan.

6.6.2. The site is located within the former Sandyford Business Estate and is within Zone 2 ‘Mixed Use Core Area – Outer Core’. SUFP section 2.1 refers:

Mixed-use zoning in the core area provides for a mix of uses within structures and/or between plots. Uses can be mixed horizontally and or vertically within the plot.

Objective MOC - Mixed Use Outer Core Area Zone 2 applies:

It is an objective of the Council to provide for a mix of uses, which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services, (Map 1)

Residential development is open for consideration under the MOC zoning objective, subject to the following:

**Residential development shall accord with the policy for residential within the mixed use core areas.*

SUFP section 2.2.2.1 states:

The Plan’s land use zoning objectives provide for the residential development permitted to date within the Mixed Use Core Areas. Future residential development will primarily be focused in the residentially zoned lands within the Plan ...

SUFP section 2.3.2.2 states:

It is considered that the number of apartments permitted to date in the Mixed Use Core Areas is sufficient to provide vitality to these areas. Future residential development should primarily be focused within the residential zoned land (Map 1, Zone 5). This will enable the creation of sustainable residential neighbourhoods with environments more conducive to protecting residential amenity and able to provide a mix of home types.

6.6.3. The following SUFP objectives apply:

Objective MC4 It is an objective of the Council to limit the number of additional residential units within Zone 1 (MIC) and Zone 2 (MOC) to circa 1,300 residential units. Of these 1,300 residential units, 835 have planning permission as of October 2014. This scale of residential development accords with the SUFP 2011.

Objective MC5 It is an objective of the Council to require all residential development within the Plan boundary to benefit from the public open space requirements set down in the Dún Laoghaire-Rathdown County Development Plan. The applicant shall set out clearly in any proposed development, how this requirement is being addressed. Where the Planning Authority agrees it is not possible to provide meaningful and useable public open space or where a specific local objective requires, the applicant shall provide indoor community facilities (e.g. community rooms, indoor active recreational uses for residents) or a financial contribution in lieu of open space, the nature of which should be agreed with the Planning Authority at pre planning stage.

Objective MC6 It is an objective of the Council to require all residential developments to provide private open space in accordance with the requirements set down in the Dún Laoghaire-Rathdown County Development Plan.

Objective MC8 It is an objective of the Council to seek the provision of a use that animates the street corners e.g. Hotel/Apart Hotel at the north-western end of Ballymoss Road at the junction with Blackthorn Drive (Map 1, SLO 109)

Objective MC9 It is an objective of the Council to locate uses that enliven, and attract customers fronting the routes leading to the Luas, particularly along Ballymoss Road.

6.6.4. SUFP Map 2 Plot Ratios/Residential Densities indicates a plot ratio of 1:3 for the development site. Map 3 Building Height indicates a height of six storeys at the site, with a specific objective for a building of notable design. The following policies apply:

Policy SUFP 2 Density and Scale It is Council policy to ensure that Sandyford Business District develops in an orderly manner in accordance with the increase in uses set out in the objectives of this Plan and the Density and plot ratio set out in Map 2.

Policy SUFP 3 Building Height in Sandyford Business District It is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3.

The following objectives also apply:

Objective DS1 It is an objective of the Council to provide for a future growth in office based floor space (high intensity employment), over and above what has already been permitted in September 2011, of 350,000 sqm of office, consisting of 250,000 sqm of additional space and 100,000 sqm of floor space created by the redevelopment of existing sites. This quantum of office space is dependent on the modal split target for future development set out in Section 4 of this Plan, being achieved.

Objective DS3 It is an objective of the Council to ensure where the plot ratio proposed is greater than 1:2, the layout should take the form of streets in order to contribute to the vibrancy of these core areas.

Objective BH1 It is an objective of the Council to ensure that Sandyford Business District is developed in accordance with height limits set out in Map 3 Building Height subject to the building making a positive contribution to the built form as set out above.

Objective BH2 It is an objective of the Council to require applicants to include with their proposals an analysis of the impact of the height and positioning of buildings on:

- Immediate and surrounding environment;
- Adjoining structures;

- Open spaces;
- Public realm (including impact on streets, spaces, pedestrian and cycle routes, identified green routes, and with particular emphasis on shadow impact);
- Views and Vistas; and
- Impact on microclimates (such as wind funnels and overshadowing)

Objective BH4 Buildings at locations identified on Map 3 with a triangle symbol shall be of notable design to mark its prominent location. Height limits shall accord with those shown on Map 3 and Building Height Objectives in Section 3.2 of the Plan.

6.6.5. The following policy relating to the public realm applies:

Policy SUFP 4 Public Realm It is Council policy to promote a high standard of public realm within Sandyford Business District. Public realm is defined as all external spaces that are publicly accessible, including streets, parking areas, footpaths, squares and parks.

Public realm objectives PR1, PR2, PR3, PR4 and PR6 also apply. Objectives PR5, PR7 and PR8 are noted in particular:

Objective PR5 It is an objective of the Council to endeavour to conserve all street and roadside trees where feasible and to replace all trees removed with an appropriate species, where the removal of street and roadside trees is necessary.

Objective PR7 It is an objective of the Council to provide a clear, direct, accessible and inviting pedestrian and cycle route from the planned transport interchange at Blackthorn Avenue into the centre of Sandyford Business Estate. This shall be achieved by creating a generous crossing point at the location of the interchange, clearly defined by the building edges and setting back the building line at the junction of Ballymoss Road and Blackthorn Avenue and by providing a shared surface environment along the entirety of the route.

Objective PR8 It is an objective of the Council to facilitate the provision of an urban plaza at the northern end of Ballymoss Road at the junction with Blackthorn Avenue to enhance legibility of the pedestrian and cycle route from the planned transport interchange. This civic area would both complement the proposed Civic Park and

form a visual relationship with, and provide clarity to the network of routes between, Beacon South Quarter and the Rockbrook development.

- 6.6.6. SUFP Drawing no. 5 indicates a proposed pedestrian and cycle route along the Blackthorn Avenue site frontage and an existing pedestrian route along Ballymoss Road. Ballymoss Road is indicated as a 'Local Road – level 4 (30 kph)' in the road hierarchy Drawing no. 7. SUFP Drawing no. 10 indicates a green route along Ballymoss Road, to link the plaza at the junction with Blackthorn Avenue with a zoned town/ civic park at Carmanhall Road. Drawing no. 11 indicates shared surfaces at Ballymoss Road and at the junction of Ballymoss Road and Blackthorn Avenue. The following policy applies:

SUFP Policy 5 Way Finding It is Council policy to improve the permeability of Sandyford Business District by providing, in co-operation with developers, clear and pleasant routes for pedestrians and cyclists linking origin with destination.

SUFP objectives WF1, WF2 and WF3 also apply. Also objective OS2 in relation to green routes.

SUFP Objective TAM 7 seeks to prioritise Ballymoss Road to facilitate a quality cycle/pedestrian link from the Stillorgan Luas station to the heart of Sandyford Business Estate.

- 6.6.7. SUFP section 3.5.1 specifies the following design principles for sites at the northern end of Ballymoss Road:

- Have building lines sculpted to provide a civic plaza and an entrance to the estate.
- On the site adjacent to Rockbrook site – provide a building form, which would serve as a visual reference or orientation marker within the estate.
- Provide ground floor uses, which would animate and provide extended life to the plaza.
- Be modelled to minimise impact upon neighbours and step with the sloping land.

6.7. Statement of Consistency

6.7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016. The Statement considers compliance with national, regional strategic planning policy and guidance documents and local policy documents.

6.7.2. The Statement makes the following points in relation to national and regional planning policies:

- The development seeks to deliver a significant quantum of residential development at a site that is located within a well-established suburban location, within an employment node which is within walking distance of a multitude of services, exceptional public transport options and very good local amenities including pedestrian and cycle links.
- The site also has excellent access to the local, regional and national road networks with connectivity around the business park and also linkages to the M50 and the N11.
- The development will provide for a high-quality residential scheme through the design and the materials and finishes proposed. In addition, the proposed units are in accordance with the apartment size requirements of the Apartment Guidelines.
- The development will deliver a compact, well-designed, sustainable form of residential development on an existing underutilised, zoned, urban site located in close proximity to high quality public transport services and within a well established social infrastructure and is therefore fully in line with the principles of the NPF and associated government guidelines.
- The proposed 190 no. BTR apartments will improve the quantity and mix of residential stock at a location that is particularly well served in terms of public transport, education, local retail, recreational and associated social infrastructure.
- The EMRA RSES promotes the re-use and intensification of land within Sandyford for residential and employment development due to its location on the Metrolink – LUAS corridor. The delivery of residential, offices, restaurant and café on this key site, given its relationship with the Stillorgan Luas stop 100m away, is

wholly in compliance in principle with the locational and quantitative policies and objectives of the RSES.

- The proposed 14–15 storey height is considered to be appropriate within the surrounding context having regard to the location of the site within an existing Mixed Outer Core which is well served by public transport. The permission for 17 storeys on the adjoining site to the west is noted. The NPF and the Building Height Guidelines encourage increased height and density on appropriate sites. The proposed design strikes a balance between respecting the planning parameters of the extant scheme and ensuring that the development potential of a strategically positioned underutilised plot is maximised.
- The applicant submits a detailed rationale in response to the 12 urban design criteria of the Sustainable Residential Development Guidelines.
- The site is considered to represent a “Central and /or Accessible Urban Location” with regard to the Apartment Guidelines due to its location adjacent to the Luas stop and to multiple bus routes and within the Mixed Outer Core of the Sandymount Urban Area/Business Park. Details of consistency with the SPPRs of the Apartment Guidelines are submitted.
- The proposed reduced car parking provision in conjunction with proximity to the LUAS promotes a modal shift to alternative forms of transport while also creating a high quality public open space for the area. This scheme prioritises pedestrians and cyclists through the development, connecting into the wider pedestrian network, as per DMURS.
- The development does not include a childcare facility. It is submitted that childcare demand generated by the development may be accommodated by existing/permitted childcare facilities in the area, with regard to the requirements of the Childcare Guidelines, as updated by the Apartment Guidelines.
- The application includes a Site Specific Flood Risk Assessment (SSFRA) with regard to the Flood Risk Guidelines.

6.7.3. The Statement makes the following points in relation to development plan policies and objectives:

- The site is zoned and serviced and is identified in Figure 1.3 of the development plan core strategy as part of 410 ha of serviced land that is expected to deliver c.18,000 residential units in the short to medium term. The development will consolidate and densify this existing urban area and is therefore in accordance with the development plan core strategy and settlement strategy.
- The development provides a new public plaza at this intersection, in accordance with SLO 121 and SUFP objective MC7. The proposed café, restaurant, gym and offices at ground floor level will animate the street and the public plaza, in accordance with SLO 109 and SUFP objectives MC8 and MC9.
- The proposed café, restaurant, gym and office land uses are all permitted in principle under the MOC zoning objective. Residential development is open for consideration, subject to accordance with the SUFP. Consistency with the SUFP is addressed in the submitted Material Contravention Statement.
- The proposed quantum and density of development are appropriate for this location close to public transport and services and comply with Policy RES3. The provision of a mixed apartment scheme will improve the mix of housing typologies in the wider area in accordance with Policy RES7. The development will provide Part V social housing at 20% of the total scheme in accordance with Policy RES8. The range of apartment types can provide a viable housing option for older people and empty nesters in accordance with Policy RES9.
- The development achieves urban design principles set down in national policy in accordance with Policy UD1.
- The development meets the quantitative standards for residential development as per development plan sections 8.2.3.1 – 3 and SUFP objectives MC5, MC5, MC6.
- The proposed 518 sq.m. of office space is considered appropriate for this location on the MOC zone, with regard to SUFP objective DS1. Office use at this location can be supported by the existing public transport network.
- The proposed 25 sq.m. café kiosk is at an ideal location in relation to the Luas stop and the proposed offices. The restaurant is also restricted in size to 183.5

sq.m., which can be supported in this location. The development is therefore in accordance with SUFP objective DSD2.

- The development will create a new plaza on this key corner site. It addresses all surrounding streets and provides a strong urban frontage in this area. It is therefore in accordance with SUFP objectives DS3 and DS4.
- The development will bring a disused brownfield site back into active use, in accordance with SUFP objective DS5.
- The Statement of Material Contravention addresses consistency with building height objectives.
- The proposed plaza, along with the development of attractive tall buildings on this vacant derelict site will contribute to and enhance the public realm creating an attractive, safe and functional public realm that integrates with the wider area, in accordance with SUFP public realm objectives.
- With regard to SUFP objective PR5, the development will involve the removal of 14 no. existing trees on site. However, the existing trees along Ballymoss Road will be retained and the landscaping masterplan includes additional planting.
- The development has been designed to meet SUFP objectives PR7 and PR8 in relation to pedestrian and cycle routes and objective PR10 in relation to SUDS.
- The development provides appropriate levels of parking as per the submitted Traffic and Transport Assessment (TTA), with regard to SUFP parking objectives.

6.8. Statement of Material Contravention

6.9. The applicant has submitted a Statement of Material Contravention in relation to the following matters:

- Consistency with the MOC zoning objective
- Car parking material contravention
- Quantitative apartment standards material contravention
- Building height material contravention
- Quantum of residential development material contravention
- Legislative context

The points made in relation to these issues may be summarised as follows.

6.9.1. Consistency With the MOC Zoning Objective

The applicant submits a Legal Opinion by Mary Moran Long JC in relation to this issue. The following main points of same are noted:

- The proposed mixed use development is in line with the objectives of the zoning. MOC Zone 2, which expressly provide for residential use, which is ‘open for consideration’ under the zoning objective, but is further qualified: *Residential development shall accord with the policy for residential within the mixed use core areas.”
- The ‘policy’ referred to in the development plan is not a zoning objective. The policy forms part of the development plan which was made in 2016. It is presumed that ‘policy’ includes the reference to ‘circa. 1300’ residential units contained in SUFP objective MC4. MC4 does not prescribe, nor do any other policies prescribe, what a proportionate mix should be to balance a mixed use area.
- The legal opinion concludes that MOC-Zone 2 is a zoning objective which provides for residential units with limitations. To date no permissions have been granted for residential units in this zoned area. Policy objective MC4 forms part of a suite of objectives in the Development Plan which provide for form, mix and pattern of development on sites zoned MIC Zone 1 and MOC Zone 2. Policy objective MC4 cannot be considered a zoning objective.
- The planning authority in its submission to the Board appears to confuse the status of policy objective MC4. The term ‘circa. 1300’ residential units in policy objective MC4 does not impose a mandatory cap on residential units given that it has been exceeded. This objective differs from Government and national housing policy set out in the relevant objectives of the National Planning Framework in particular and Ministerial guidelines made under section 28 of the 2000 Act. The current development plan which includes the SUFP was adopted in 2016. Since then, the provisions of the 2016 Act give precedent to Ministerial Guideline and Government and national policy and principles over the development plan to the extent that they differ, and which the Board is required to observe.

- The proposed development satisfies the definition of Strategic Housing Development set out in Section 3 of the 2016 Act. It is not a material contravention of the zoning objective MOC- Zone 2 in Dun Laoghaire Rathdown Development Plan 2016-2022, which provides for residential use. The Board is not precluded by the provisions of section 9(6)(b) of the 2016 Act from granting permission for the development on the subject site. If the development is a material contravention of policy objective MC4, the Board may grant permission in applying the criteria set out in section 37(2)(b) of the 2000 Act.

6.9.2. Car Parking Material Contravention

- The development provides 59 no. car parking spaces in total, which equates to 0.3 no. spaces per unit, and is less than that requires to meet the car parking standards set out in development plan table 8.2.3.
- Development plan section 8.2.4.5 recognises that the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. This section also states that reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on various issues. There is also a provision that, in very limited circumstances, the Council may also consider the development of car-free housing on suitable small-scale sites which have with high levels of public transport accessibility, have convenient and safe access to local shops and community facilities and/or are located very close to Town Centres. Section 8.2.4.5 also states that the planning authority may require the maximum number of car parking spaces specified in Tables 8.2.3 and 8.2.4 to be further reduced where it is considered that the surrounding road network is not sufficient to cater for the volume of traffic likely to be generated by a development.
- Development plan policy ST3: Development of Sustainable Travel and Transportation Policies states a policy to promote, facilitate and co-operate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of

Transport's "Smarter Travel, A Sustainable Transport Future 2009-2020" and the NTA's 'Greater Dublin Area Draft Transport Strategy 2016-2035'. Effecting a modal shift from the private car to more sustainable modes of transport will be paramount objective to be realised in the implementation of this policy.

- There is a conflict between the car parking standards set out in development plan table 8.2.3 and Policy ST3 which is aiming for a modal shift away from private cars as well as the text within section 8.2.4.5 which requires reduced car parking standards for any development that is close to a Town Centre, in proximity of public transport, the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a Travel Plan. All of which can be achieved on this site. It is submitted that the rigid application of Table 8.2.3 does not take into account the circumstances of the site and the circumstances where reduced car parking may be appropriate.
- The applicant notes sections 4.18, 4.19 and 4.23 and SPPR 8(iii) of the Apartment Guidelines. The development site has a 'central and/or accessible location' and the proposed car parking provision is consistent with this national policy guidance.

6.9.3. Quantitative Apartment Standards Material Contravention

- Development plan section 8.2.3.3 sets out quantitative standards for dual aspect, unit size, unit mix, internal storage, separation between blocks.
- The development is not in accordance with development plan section 8.2.3.3 (iii) in relation to housing mix but is consistent with the standards for BTR housing mix as set out in the Apartment Guidelines.
- Similarly, the development does not meet detailed requirements for apartment developments set out in development plan section 8.2.3.3 in relation to internal storage, floor areas, private open space and dual aspect units, however it complies with the requirements of the Apartment Guidelines in relation to these matters.
- Development plan section 8.2.3.3 (iv) requires a 22m separation distance between apartment blocks, which is not met by the proposed development. The

proposed 20m separation distance is in accordance with NPF NPO 13 which promotes performance criteria over numerical standards. It is also in line with section 2.23 of the Apartment Guidelines which states that “In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.” The development achieves good daylight, sunlight, privacy and microclimate performance as well as an appropriate density and height for the site.

- The development is also consistent with the requirements of SPPR 8 in terms of BTR development.

6.9.4. Building Height Material Contravention

- Policy SUFP 3 is that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3, which indicates six storey heights at the development site. The Building Height Strategy in development plan Appendix 9 includes an objective to ensure that Sandyford Business Park is developed in accordance with the building heights set out in the SUFP. Refers to development plan policy UD6.
- The SUFP has been superseded by national planning policy on building height. There is significant potential for the development site to provide increased heights, subject to appropriate safeguards. The proposed 14 and 15 storey buildings are in accordance with best practice urban design principles and can be readily absorbed at this location without any undue impact on the character of the area or the amenity of neighbouring properties.
- The applicant provides a rationale of the development with regard to the development management principles and the criteria provided in section 3 of the Building Height Guidelines, including consistency with national planning policy.

6.9.5. Quantum of Residential Development Material Contravention

- SUFP Objective MC4 is to limit the number of additional residential units within Zone 1(MIC) and Zone 2 (MOC) to c. 1,300 residential units. It also requires that MOC lands provide less residential development than the adjoining MIC lands.

The permitted developments in the area already exceed this limit of c. 1,300 residential units and the proposed development will further exceed this limit.

- With regard to the detailed wording of SUFP Objective MC4, it does not outline what “less” means or the proportion of mixes is not outlined. This objective is for “circa” 1,300 residential units, which suggest the potential for more residential units in total than 1,300 if deemed appropriate. It is therefore argued that the development does not contravene this objective.
- The MOC zoning objective is to be achieved across a wider area than just the development site. The subject development is the only residential proposal to come forward on the MOC zoned lands since the SUFP was adopted in 2012 and will increase the residential element of the MOC zoning by 190 no. units. The c. 1,300 no. residential unit limit, which was identified in 2012, has already been exceeded by the permitted developments within the MIC zone. Objective MC4 notes that, as of October 2014, there were 835 no. residential units permitted in the MIC and MOC zones. As of September 2020, a further 1,108 no. units have been permitted within the MIC zone (ABP-304405-19, ABP-303738-19 D18A/0785 and ABP-305940-19), which brings the total permitted residential units to c. 1,943 no. units. All of the units permitted since 2014 are located within the MIC zoning with none in the MOC zoning. Therefore, the residential use element of MOC Zone 2 has not as yet been fulfilled
- The proposed mixed use development is in accordance with Objective MC4. This objective does not prescribe, nor do any other policies outline, what an appropriate mix should be to create a balanced mixed use area. The submitted legal opinion considers that the term ‘circa.’ 1,300 residential units in Objective MC4 leaves open the possibility of a number greater than 1,300 residential units being permitted for zone MIC Zone 1 and MOC Zone 2.
- It is noted that DLRCC has not yet adopted a Housing Needs Assessment to re-assess the level of need in this area.
- The development is in accordance with the guidance on residential densities in proximity to public transport corridors/nodes as per section 5.8 of the Sustainable Residential Development Guidelines and section 2.4 of the Apartment Guidelines.

- The applicant notes several recent permissions at adjacent lands to the west and southwest of the development site, which achieve similar densities and higher buildings than is currently proposed, ref. ABP-305940-19 (former Aldi site/ Sandyford Central) and ABP-304405-19 (Rockbrook). The increased building height at both sites materially contravened the SUFP.
- The proposed development is consistent with the newly emerging pattern of development in the area, both permitted and currently being implemented, which is consistent with national and regional policy and guidelines on sustainable use of resources, such as serviced land and public infrastructure.
- The development site currently has several unique advantages for higher density development as it is vacant, brownfield, occupies a strategic location at key intersection in Sandyford Business District opposite the Luas stop and close to excellent bus connections, is accessible to educational, retailing, employment, and leisure facilities, is well served by various modes of transport, and is delivering a new public plaza.
- The applicant cites examples of recent SHD permissions within Dun Laoghaire Rathdown, also at locations close to high capacity public transport:
 - ABP-304590-19 Walled Garden, Gort Muire 116 no. apartments within 4 no. 5 storey blocks.
 - ABP-305940-19 Former Aldi Site, Carmanhall Road, 564 BTR apartments in 6 no. blocks ranging in height up to 17 storeys.
 - ABP-304405-19 Rockbrook, junction of Blackthorn Drive and Carmanhall Road, 428 no. apartments and associated ancillary services measuring 5 to 14 storeys.
 - ABP-307415-20 Lisieux Hall, Murphystown Road, Leopardstown 200 apartments in 4 no. 5-7 storey blocks.
 - ABP-305261-19 Dundrum Town Centre 107 no. apartments, café and associated site works.
 - ABP-310570-21 Cooldown Commons and Fortunestown, Citywest, D24 421 no. apartments, offices, and retail unit

6.9.6. Legislative Context

- Refers to section 9(6) of the 2016 Act.
- It is submitted that the Board can grant permission under sections 37(2)(b)(i), (iii) and (iv) of the 2016 Act.
- Section 37(2)(b)(i) The proposed development is of strategic or national importance as it is a Strategic Housing Development, and is located in a strategic site within the SUFP area.
- Section 37(2)(b)(ii) Conflicting development plan objectives. Whilst development plan Policy RES5 seeks to generally provide average net densities of 35-50 units/ha, RES3 seeks to provide higher residential densities of minimum 50 units/ha at sites within 1km of a DART or Luas stop. With regard to car parking there is a conflict/lack of clarity in development plan section 8.2.4.5 and Policy ST3 which requires a standard level of parking versus reduced car parking in sustainable locations.
- Section 37(2)(b)(iii) Consistency with section 28 guidelines as detailed above.
- Section 37(2)(b)(iv) Refers to other SHD permissions in the area.

7.0 **Third Party Submissions**

7.1. None on file.

8.0 **Planning Authority Submission**

8.1. Dun Laoghaire Rathdown County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Dun Laoghaire (Housing, Economic Development, Community and Cultural Development, Planning & Infrastructure and Climate Change Business) Area Committee Meeting held on 22nd November 2021. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

8.2. Issues Raised by Elected Members

8.2.1. The issues raised by the elected members as presented in the CE report may be summarised as follows:

- Proposed density too high for the area.
- Proposal provides insufficient open space considering the density of units proposed.
- Major concerns arise with roof gardens at 15th floor level.
- Proposal contravenes the development plan and the SUFP in terms of height, density and open space.
- The SHD process is flawed.
- The LUAS is currently operating at capacity with significant issues at peak times.
- The Metro is needed to adequately serve the wider area.
- Location of play areas at roof level does not comply with Apartment Guidelines.
- Quality of public open space is substandard.
- Lack of wheelchair parking spaces is unacceptable.
- Provision of car sharing should be required given reduced car parking.
- Construction traffic on Blackthorn Avenue should be restricted.
- Loading area for commercial uses proposed at ground level has not been provided.
- Two-tier cycle parking is not deemed acceptable.
- Mature trees should be protected as they cannot be replaced by saplings.
- DLR has been subject to the highest number of SHD Applications in Ireland.
- Necessary infrastructure needs to be provided to support increase in units.
- Confirmation should be sought from the Fire Brigade in terms of fire safety for high-rise buildings.
- Construction works should not occur outside normal working hours.
- Inadequate storage space is being provided.

- Current housing model is over-reliant on renting. Support from owner-occupants should also be provided.
- Sustainability and accessibility are matters of concerns. The area is only linked by public transport with the city centre.
- More trees are needed in the area.
- The site is located in the Mixed Outer Core. The site is not a primary residential site and the scheme is primarily residential. The proposal undermines and is contrary to the zoning objective.
- The SUFP is not fit for purpose and needs to be renewed
- Permission should be refused if there is no school capacity in the area, which has not been adequately assessed.
- Number of three bed units proposed brings a requirement for a play area.
- A ratio of one parking space per unit should be provided.

8.3. DLRCC Planning and Technical Analysis

8.3.1. The planning and technical analysis includes the planning report dated 15th December 2021, as well as reports by DLRCC Drainage Planning (1st November 2021), DLRCC Housing Dept. (22nd November 2021), DLRCC Environment Section (9th December 2021), DLRCC Transport Planning (21st October 2021), DLRCC Environmental Health Officer (30th November 2021), DLRCC Public Lighting (undated) and DLRCC Parks and Landscape Services (26th November 2021), which are all incorporated into the following summary.

8.3.2. DLRCC Comment on Principle of Development and MOC Zoning Objective

- The proposed development is totally dominated by a residential use (95.63% of the total GFA) and is deemed to materially contravene the MOC zoning objective, which clearly indicates that any scheme on those lands should comprise primarily employment and services with retail and residential as a secondary complementary use to achieve an adequate mix but where residential shall not be the primary use.
- DLRCC notes the applicant's argument that it appears to superimpose the provisions of policy objective MC4, which is not a zoning objective, but one of a

suite of objectives with the purpose of governing form, mix and pattern of development on sites zoned MIC Zone 1 and MOC Zone 2, onto MOC Zone 2, which is a separate and distinct zoning objective. MC4 is a policy objective, the same as MC1 to MC9.

- The Planning Authority's position in relation to whether or not the development accords with MOC zoning objective is entirely based upon the zoning objective itself and the limitations it imposes on residential uses. Objective MC4 is a separate, if related, consideration that does not affect the Planning Authority's opinion in relation to zoning.
- Even if the numerical cap established by Objective MC4 is disregarded, DLRCC would still consider the development as contravening the MOC zoning objective. The applicant's position acknowledges that the MOC zoning objective carries a limitation of the residential uses to be provided. However, the proposed development does not reflect the limits on the residential use by the MOC zoning.
- DLRCC notes the recent Board decision ABP-310609-21 to refuse permission for development comprising 142 No. apartments, a work hub and a cafe and serviced unit within the Dublin City Council administrative area. DLRCC notes refusal reason no. 1 of ABP-310609-21, which is considered relevant in this instance:

The proposed development materially contravenes the policy considerations set out in Section 14.8.6 of the Development Plan, in particular having regard to the context of the site and its environs, which are zoned and in use as Z6 "Employment/Enterprise", the primary objective of which is "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation". The policy context for the area, requires that other uses, such as residential, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective. The proposed development fails to satisfy this policy requirement. The Board is not satisfied that the provisions of section 37(2)(b) apply, and in that context, consider that the proposed development would be contrary to the proper planning and sustainable development of the area, and to

the City Development Plan vision for this wider area as a place of enterprise and employment.

- DLRCC considers that both the 'Z6' and the 'MOC' zoning objectives share similar objectives to provide employment/enterprise/services type of development primarily, with a complementary residential element. The Board is requested to consider this as a possible precedent when assessing the subject proposal.

8.3.3. DLRCC Comment on the Quantum of Residential Development

- The Sandyford Central SHD to the immediate west ref. ABP-305940-19, breached the 1,300 units limit established by the objective MC4 setting a total quantum of residential units permitted to date of 1,356 units within zones 1 and 2. Given that the upper limit of units has already been exceeded, DLRCC considers that there is no scope for further residential units in the Mixed Use Core Areas.
- The proposed development with 190 no. units comprises c. 14% of the total number of units already permitted in zones 1 and 2. DLRCC therefore considers that the development materially contravenes Objective MC4.
- DLRCC states that the restriction of units is not arbitrary but responds to wider considerations including design and character, with an emphasis in ensuring that an adequate balance between retaining the existing mix of uses in the Mixed Use Core Areas, ensuring that residential use does not become unduly dominant in these areas, the carrying capacity of existing and planned infrastructure and the diversion of residential development from other locations. The proposed intensification in the use of resources in excess of what was planned under the SUFP could detrimentally affect the viability and success of lands identified in the SUFP for residential development and negate the potential or creation of sustainable neighbourhoods with an adequate housing mix.
- DLRCC refers to the availability and access to infrastructure, including amenities such as public open space, given that these aspects have been dimensioned and spatially located in the SUFP area on the basis of the restrictions established by objective MC4 for zones 1 and 2. A continued breach of objective MC4 could result in, inter alia, the under provision of necessary amenities such as public open space. It is also noted that areas of public open space in the SUFP are located in close proximity to residential-zoned lands to ensure easy access for

residents. The subject site does not benefit from an area of public open space in its immediate vicinity.

8.3.4. DLRCC Comment on Residential Density and Plot Ratio

- Refers to development plan Policy RES 3. The site is less than 100m from the Stillorgan LUAS Stop, which makes it an appropriate location for increased densities. A number of bus routes also run along Blackthorn Avenue. Whilst no upper limits to density are established in the national or local planning policy for such locations, the proposed density is significantly greater than that of the immediate surrounding area. Refers to the density of c.366 units/ha permitted recently on the adjoining site to the west.
- Refers to Policy SUFP2. There is no specific density provision in the SUFP for the development site, given that the MOC zoning was never planned to accommodate a substantial residential development. However, DLRCC notes that the maximum density permitted on Map 2 for lands within the SUFP is 175 units/ha. The development exceeds the density ranges envisaged for the SUFP lands. SUFP Map 2 indicates a maximum 1:3 plot ratio at the development site.
- When considered in combination the density and the plot ratio are deemed to clearly indicate a potential overdevelopment of the site.

8.3.5. DLRCC Comment on Building Height

- SUFP Map 3 indicates a maximum of six storeys at the site. This is not a blanket limitation across the SUFP area but rather a site-specific limitation established on the basis of finely-grained assessment of the site and sites in the surrounding area, as well as the expected site context as envisaged in the SUFP.
- The applicant seeks to rely on the permission to the adjoining site to the west (ABP-305940-19) to justify the proposed building height. However, the adjoining site was much larger and therefore more capable of setting its own context as provided for in the SUFP. Only one of six blocks within the permitted under ABP-305940-19 exceeds the limitation of 14 storeys by 3 storeys. As such, this departure from the SUFP is much more modest than that currently proposed. DLRCC also recommended refusal of ABP-305940-19 on the basis of breaching the height limit of the SUFP.

- DLRCC considers that the proposed building heights of 15 and 14 storeys exceed the maximum height established by the SUFP and that the development is contrary to the SUFP and the County Development Plan in terms of height.
- The DLRCC planning analysis includes a detailed consideration of the proposed development with regard to the criteria set out in Section 3.2 of the Building Height Guidelines, which states concerns in relation to the following:
 - At the city scale level, the quality of the proposed public plaza is not entirely satisfactory.
 - At the scale of district/neighbourhood/street, there may be some basis for a departure from the six storey limit due to the new context created at Sandyford Central to the west of the site. The proposed 15 and 14 storeys are capable of establishing an adequate relationship with the 17 storey Block D at the north east corner of Sandyford Central. The applicant's photomontages indicate that the development would establish a satisfactory east/weight height transition addressing Blackthorn Drive/Blackthorn Avenue that would not be visually incongruous and would not result in an overbearing or dominant presence. However, DLRCC states concerns about the relationship between the development and the site to the immediate south at Ballymoss Road, which, if redeveloped in line with the SUFP, could reach a maximum height of six storeys. The proposed nine storey aparthotel currently under appeal at that site would also create a height disparity at that location that could result in incongruous views particularly in the short-range. The proposed facade treatments and choice of materials, succeed in breaking down the facade and articulate the elevations in a manner that avoids being monolithic. However, the proposal is considered to fall short of the SUFP requirement to deliver a building of 'notable design' in order to mark the site's prominent location as a gateway to the Sandyford Business Estate. DLRCC considers the development as two tall structures of acceptable design but that lack the sufficient character, design merit to reach the status of 'notable design'.
- DLRCC concludes on this basis that the development does not comply with the criteria of section 3.2 of the Building Height Guidelines, particularly at

neighbourhood/street scale to deem the proposed heights as permissible in accordance with SPPR3.

8.3.6. DLRCC Comment on Residential Amenities and Separation Distances

- Development plan section 16.3.3 requires a minimum of c. 22 m between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. The distances between the development and directly opposing windows to habitable rooms within Sandyford Central exceed 28m. While in other circumstances the positioning of Block 1 between 4.6m and 4.9m from the west boundary would be concerning, given the adequate separation distances to the permitted layout of Sandyford Central, no negative impacts on residential amenity due to overlooking are anticipated. Similarly, the proposed separation distances of c. 6m from Blocks 1 and 2 to the south boundary with Grafton House would generally be a matter for serious concerns. However, the proposed obscure glass to all south facing windows of both blocks is deemed satisfactory with a view to protect the development potential of Grafton House.
- Blocks 1 and 2 are separated by, c. 20m with directly opposing windows associated with living rooms and bedrooms on each side. Distances between directly opposing balconies, which are proposed to provide private amenity space are, approximately 16m. DLRCC considers that undue overlooking would occur, to the detriment of the amenity of future residents of the impacted units. The development does not address this issue by way of design solutions such as staggered windows and balconies. Given that the site is largely unconstrained by surrounding developments, it is considered that the proposed situation is a result of overdevelopment rather than a response to the site's circumstances. Whilst the planning authority agrees that a relaxation of certain standards is appropriate in certain circumstances and in line with national policy to achieve development at sustainable development, that relaxation is not deemed appropriate in the context of the proposed development for two main reasons: (1) it is considered that the proposal represents overdevelopment and a sustainable, albeit less dense,

development could be constructed at this site that protects the amenity of potential future residents; and (2) achieving sustainable goals should not be at the cost of providing a significant number (c. 60 no. units) of substandard units with poor levels of amenity.

8.3.7. DLRCC Comment on Quality of Residential Accommodation

- Development plan section 8.2.3.3 states that apartment developments greater than 30 no. units 'should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.'. The planning authority acknowledges that development plan policy on this issue has been superseded by SPPR 8 of the 2020 Apartment Guidelines but considers that increasing the provision of three bed apartments on site for the rental market would be a positive addition in order to create a sustainable residential community. Recommends a condition to require 10% of the units as three bed apartments (19 no. units).
- DLRCC considers that the site does not have any significant constraints and that the site characteristics do not justify the reduction in the provision of dual aspect units to a minimum of 33% as per SPPR4(i). Thus, 50% is deemed to be the adequate standard and the development therefore fails to provide an adequate number of dual aspect units and an unsatisfactory level of amenity for future residents.
- DLRCC considers that 2% ADF should be the target for LKD rooms in order to ensure that an adequate level of amenity is achieved. Only 64% of the multifunctional rooms achieve 2% ADF. No Sky Line assessment has been carried out to give a better understanding of the level of amenity that can be expected. The planning authority does not accept the applicant's contention that all the apartments have a floor area that exceeds by at least 10% the minimum requirement and that it is more difficult for larger apartments to achieve recommended daylight levels. Larger apartments have reduced access to daylight if the increased area is a result of increased room depth (i.e. increased distance from the window to the back wall) larger apartments that do not have excessive room depths do not suffer from reductions in ADF. The planning authority considers that on the basis of the significant number of LKD rooms (68)

that do not achieve 2% ADF the proposal is not capable of providing satisfactory levels of amenity for future residents.

- Negative impacts on sunlight and daylight on existing properties and associated existing amenity spaces are limited, on the basis of the VSC and APSH assessments carried out (primarily affecting certain windows of Block D of Sandyford Central) and not significant in scale.
- The proposed communal amenities and private amenity spaces are considered to meet the requirements of the Apartment Guidelines. There are concerns about the lack of passive surveillance of play areas located on the roof gardens.

8.3.8. DLRCC Comment on Public Open Space and the Public Realm

- DLRCC Parks and Landscape Services notes that the development involves the removal of all trees on site, including 14 no. Category B trees. It is unfortunate that the scheme does not incorporate some or all of these trees into its layout. This is perhaps indicative of inappropriate density. The Parks Dept. recommends refusal for reasons relating to the removal of Category B trees, which provide amenity value, lack of open space areas and excessive use of hard landscaping, also lack of consultation regarding areas to be taken in charge.
- Development plan section 8.2.2 requires a provision of 15 – 20 sq.m. of public / communal open space per person on the basis that 3.5 persons would occupy dwellings having three bedrooms or more and 1.5 persons would occupy dwellings have two bedrooms or less. A default minimum of 10% (377.2 sq.m.) of the overall site area is required irrespective of the occupancy standards. The proposed overall communal open space provision of 1,430 sq.m. exceeds the requirements of the Apartment Guidelines but falls significantly below the requirements set out in development plan section 8.2.2. In addition, a significant amount of the 565 sq.m. of public open space at the public plaza at the north east corner of the site is located on lands owned by DLRCC, which are already in the public domain and should not be considered as a contribution of the development towards the provision of public open space. SUFP Objective MC5 states that the open space provision for residential development should be in accordance with development plan standards.

- DLRCC considers that the quality of the communal open spaces at roof level are acceptable with regard to the results of the sunlight and daylight study and the wind and microclimate modelling.
- DLRCC Architect's Dept. states concerns in relation to the design of the proposed public plaza and the context of the surrounding buildings. Regard is had to Drawing 11 of the SUFP which illustrates a six-storey building splayed/curved around the plaza in order to create an open and welcome environment marking the entrance to the Sandyford Business Estate. DLRCC Parks Dept. states concerns about the overuse of hard surfaces at the public spaces. However, the planning authority welcomes the provision of a plaza in a location which accords with the location identified in the SUFP and also the provision of the cafe kiosk, which can further activate and improve the usage of the plaza for the public. It is also considered that the fact that the basement level does not extend underneath the plaza allows for a meaningful planting scheme to be provided, softening the streetscape.
- The provision of commercial uses at ground floor level addressing Blackthorn Avenue and Ballymoss Rod is welcomed in order to activate the public realm as required by SLO 109. DLRCC Architects Dept. raises concerns about proposed vent grills on Ballymoss Road and the impact those can have on street level animation.

8.3.9. DLRCC Comment on Childcare Provision

- The development does not include any childcare facility. The applicant is relying upon two creches permitted as part of the adjoining SHDs at Sandyford Central and Rockbrook which in total will be 840 sq.m and with a capacity for minimum 130 children. In reaching that conclusion the Applicant appears to be estimating demand on the basis of three bedroom apartments only. The applicant also refers to existing childcare facilities within 1.5km from the subject site, however, no capacity assessment of those existing facilities appears to have been provided. DLRCC does not consider that the non-provision of a childcare facility has been adequately justified.

8.3.10. DLRCC Comment on Access, Car and Bicycle Parking

- DLRCC considers that the proposed car parking provision is too low and inconsistent with car ownership and commuting patterns data, as acknowledged in the submitted Mobility Management Plan, which shows that 52% of residents commute using private vehicles, and, if permitted, will ultimately result in overspill of parking to the surrounding streets.
- The proposed cycle parking quantum exceeds development plan requirements and the cycle parking requirements of the Apartment Guidelines and is therefore acceptable. DLRCC Transportation Section has raised concerns about the quality of the proposed cycle parking spaces on the basis that stacked bicycle parking is not accessible to all, also states concerns r.e. a substandard access via a cycle lift. Significant issues have also been raised by the Transportation Section in relation to the basement level layout.
- DLRCC Transportation Planning recommends refusal on the grounds that the quantity and quality of car parking provision, cycle parking provision, layout of basement and access to the cycle parking are all considered to be deficient, and will, in the event of a grant, result in the provision of substandard level of residential amenity for residents, and the creation of conflicts between users in the basement, resulting in the creation of traffic hazards within the proposed development.

8.3.11. DLRCC Comment on Surface Water Drainage and Flood Risk

- DLRCC Drainage Section report states that the development is generally satisfactory subject to conditions.
- The submitted SSFRA is noted, no significant flood risk is identified.

8.3.12. DLRCC Comment on Part V

- The DLRCC Housing Section report states that it is Council priority is to acquire residential units for social housing and in line with Government policy to phase out long-term leasing of social housing the Council will seek to progress the build and transfer of units on-site into its ownership as the preferred method of compliance with the provisions of Part V. Accordingly, the applicant should be

requested to submit an alternative Part V compliance proposal for consideration and agreement, in the event of a grant of permission.

- As of September 3rd, the Affordable Housing Act applies a requirement for an increased 20% 'Part V' obligation for sites acquired prior to 1st September 2015. It is unclear from the information available as to whether such an increased obligation arises in this instance. This matter should be resolved as part of the revised part V compliance submission.

8.4. DLRCC Recommendation

8.4.1. The planning authority **recommends refusal** for the following reasons:

1. The proposed development materially contravenes zoning Objective 'MOC' with the objective 'To provide for a mix of uses which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services'. The policy context for the area, requires that primary uses be employment and services and where other uses, such as residential, will be of an appropriate proportion such that they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective. The proposed development, which is overwhelmingly residential in terms of use fails to satisfy this policy requirement. In that context, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Sandyford Urban Framework Plan vision for this wider area as a place of employment and services.
2. The proposed development would breach the maximum number of residential units permissible under MC4 for MIC (Mixed Inner Core) and MOC (Mixed Outer Core) which is in place to ensure that an adequate mix of uses is maintained in the Mixed Use Outer Core and also in accordance with the capacity of existing infrastructure. The proposed development is therefore contrary to the Sandyford Urban Framework Plan and the Dun Laoghaire Rathdown County Development Plan 2016-2022.
3. The proposed development materially contravenes the height limitations established for the subject site by the Sandyford Urban Framework Plan, which

forms part of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and also fails to satisfy the requirements established by Section 3.2 and SPPR3 of the Urban Development and Building Height Guidelines at city; neighbourhood Page 30 of 66 (with particular regard to Objective BH4 of the Sandyford Urban Framework Plan to deliver a building of notable design to mark its prominent location); and site scale. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

4. On the basis of the inadequate unit mix, and in particular the insufficient provision of 3-bedroom units; the overlooking caused by inadequate separation distances between Block 1 and Block 2; the number of units that fail to achieve satisfactory Average Daily Factors in accordance with the recommendations of the 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting; the insufficient number of dual aspect units in a largely unconstrained urban context; and the non-provision of a childcare facility on site despite the proposal comprising 98 2 bedroom and 3-bedroom units, the proposed development is deemed to represent overdevelopment of the subject site resulting in a substandard level of residential amenity being provided contrary to Development Plan 2016-2022 policy and therefore, contrary to the proper planning and sustainable development of the area. The subject proposal is also deemed to set an undesired precedent that could be detrimental to the policy objectives for the SUFP area.
5. The car parking provision proposed is deemed contrary to the standards established by Table 8.2.3 of the County Development Plan 2016-2022 and could result in significant parking spillover that could detrimentally impact on the road network. Furthermore, the lack of car parking would militate against the establishment of a varied residential population, including those who may need vehicle as part of their transportation requirements.
6. The layout of the basement level is deficient and would likely result in the creation of an excessive number of conflicts between users in the basement, resulting in the creation of traffic hazards within the proposed development and poor residential amenity for future residents.

8.4.2. DLRCC also recommends conditions to be applied in the event that the Board decides to grant permission, including recommended condition no. 5, which requires the following amendments to the proposed development:

- Floors 3 to 12 of Block 1 and floors 3 to 11 of Block 2 shall be removed so the resulting blocks have a maximum height of 6 storeys.
- 10% of the total number of units shall be 3-bedroom units.
- At least 50% of the total units shall be dual-aspect and combined living/kitchen/dining rooms shall achieve an average daily factor of at least 2%
- Above ground level no windows and/or balconies shall be located within less than 22m from a directly opposing window balcony.
- A childcare facility shall be provided, as required by the Childcare Planning Guidelines.

Also recommended condition no. 6, which requires a revised car parking provision of one space per apartment unit, and condition no. 22, which requires revised cycle parking provision.

9.0 Prescribed Bodies

9.1. Department of Defence

9.1.1. Following consultations with the Air Corps at Casement Aerodrome, the Dept of Defence submits that, given the proximity to the N11, operation of cranes should be coordinated with Air Corps Air Traffic Services, no later than 28 days before use.

9.2. Irish Water

9.2.1. Irish Water confirms that the applicant has been issued with a statement of design acceptance for proposals within the redline boundary. In order to accommodate the proposed connection to the wastewater network, a diversion of flow from Leopardstown Road to Burton Hall is required along with some localised upgrades which Irish Water will carry out as part of Connection Agreement to facilitate connection to the public network and downstream storage at Burton Hall. Irish Water anticipates all works will be in Public and works can be agreed at Connection Application stage. In order to accommodate the proposed connection to Irish Water

network at the Premises a new Connection main - (Approx.) 20m of new 150mm ID pipe main has to be laid to connect the existing 6" AC main. The applicant will be required to fund these works which will be delivered by Irish Water. It is expected that these works will be in the public domain. Conditions are recommended.

9.3. **Transport Infrastructure Ireland**

9.3.1. The development falls within an area set out in a Section 49 Levy scheme for Light Rail. No other observations are submitted.

10.0 **Assessment**

10.1. The following are the principal issues to be considered in this case:

- Principle, Quantum and Density of Development
- Design and Layout of Development
- Impacts on Visual and Residential Amenities
- Building Height
- Part V
- Childcare Provision
- Traffic and Transportation
- Drainage, Flooding and Site Services
- Trees and Ecology
- Material Contravention
- Chief Executive Report

These issues may be considered separately as follows.

NOTE: The applicant has submitted a Material Contravention Statement in relation to the matters of (i) consistency with the MOC zoning objective; (ii) car parking; (iii) quantitative apartment standards; (iv) building height and (v) quantum of residential development. The relevant technical matters and related development plan policies and objectives are addressed in each section, with the details of Material Contravention dealt with separately below.

10.2. Principle, Quantum and Density of Development

10.2.1. Quantum of Development and the MOC Zoning Objective

The elected members of Dun Laoghaire Rathdown County Council (DLRCC), as referenced in the CE report, comment that the proposed development, being primarily residential, undermines and is contrary to the relevant zoning objective. The development site is located within the boundary of the Sandyford Urban Framework Plan (SUFP), which forms Appendix 15 of the current Dun Laoghaire Rathdown County Development Plan 2016-2022. The SUFP land use zoning objectives provide for two mixed use core areas in Sandyford, defined as 'Mixed Use Inner Core Area Zone 1' (MIC) and 'Mixed Use Outer Core Area Zone 2' (MOC), with the development site being subject to the MOC objective. The stated objective for MIC Zone 1 lands is:

To consolidate and complete the development of the Mixed Use Inner Core to enhance and reinforce sustainable development.

The stated objective for the MOC Zone 2 lands is:

To provide for a mix of uses which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services.

The land uses 'offices', 'leisure facility', 'open space', 'restaurant' and 'tearoom/café' are all permitted in principle under the MOC zoning objective. Office development in the MOC zone is to be in accordance with relevant SUFP policy. Residential development is open for consideration under the MOC zoning objective, subject to the following:

**Residential development shall accord with the policy for residential within the mixed use core areas.*

SUFP section 2.3.2.2 addresses residential development within the MIC Zone 1 and MOC Zone 2 areas. It states that the number of apartments permitted to date in the Mixed Use Core Areas is sufficient to provide vitality to these areas. Future residential development is to be primarily focused within the residential zoned land within the SUFP area (Zone 5), to enable the creation of sustainable residential neighbourhoods with environments more conducive to protecting residential amenity and able to provide a mix of home types. SUFP Objective MC4 states:

It is an objective of the Council to limit the number of additional residential units within Zone 1 (MIC) and Zone 2 (MOC) to circa 1,300 residential units. Of these 1,300 residential units, 835 have planning permission as of October 2014. This scale of residential development accords with the SUFP 2011.

The planning authority considers that the development materially contravenes the MOC zoning objective and states:

The Planning Authority's position in relation to whether or not the subject scheme accords with the site's zoning objective is entirely based upon the zoning objective itself and the limitations it imposes on residential uses. Objective MC4 is a separate, if related, consideration that does not affect the Planning Authority's opinion in relation to zoning.

DLRCC recommends refusal on the basis that (1) the proposed 'overwhelmingly residential' development materially contravenes the MOC zoning objective and would be contrary to the SUFP vision for the wider area as a place of employment and services and (2) the development would breach the maximum number of residential units permissible under MC4 for the MIC and MOC zones, which is in place to ensure that an adequate mix of uses is maintained in the Mixed Use Outer Core and also in accordance with the capacity of existing infrastructure, along with other issues, as discussed below. I also note in this regard that the DLRCC elected members, as referenced in the CE report, consider that necessary infrastructure needs to be provided in support of the proposed residential units.

The applicant's Material Contravention Statement addresses consistency with the MOC zoning objective, supported by a Legal Opinion by Mary Moran-Long BL. The following points of same are noted:

- While the MOC zoning objective expressly provides for residential use, this is subject to the requirement that residential development shall accord with the policy for residential development within the Mixed Use Core Areas.
- It is presumed that 'policy' includes the reference to 'circa. 1300' residential units contained in policy objective MC4. This is not a zoning objective.
- The MOC zoning objective does not prescribe a specific ratio of land uses within the zone.

- Objective MC4 does not prescribe, nor do any other policies prescribe, what a proportionate mix should be to balance a mixed use area.
- The planning authority appears to superimpose the provisions of Objective MC4, which is not a zoning objective, but one of a suite of objectives with the purpose of governing form, mix and pattern of development on sites zoned MIC Zone 1 and MOC Zone 2, onto MOC Zone 2, which is a separate and distinct zoning objective.
- The term 'circa.' 1,300 residential units in Objective MC4 leaves open the possibility of a number greater than 1,300 residential units being permitted for zones MIC Zone 1 and MOC Zone 2. This has in fact occurred and permissions in excess of 1,300 residential units have been granted for development in MIC Zone 1 area only.
- Although MOC Zone 2 expressly provides for residential use, it is understood that no permission for residential units has been granted in the MOC Zone 2 area to date under the current development plan, although residential use is expressly provided for in the zoning objective. It seems that the residential use element of MOC Zone 2 has not as yet been fulfilled.
- Given that the proposed development is not a material contravention of the MOC Zone 2 zoning objective, which provides for residential use, the Board is not precluded by the provisions of section 9(6)(b) of the 2016 Act from granting permission for the proposed development on the subject site. It is open to the Board to invoke the provisions of section 37(2)(b) of the 2000 Act in terms of any material contravention of the development plan in relation to this issue.

Having regard to all of the above, I consider that the wording of the MOC zoning objective allows for some flexibility in the overall quantum of residential development, with the possibility of a cumulative number greater than 1,300 residential units being permitted for SFP zones MIC Zone 1 and MOC Zone 2. I am therefore satisfied that the development does not represent a material contravention of the zoning objective such that section 9(6)(b) of the 2016 Act would apply.

I note the analysis provided in the applicant's Statement of Material Contravention that the c. 1,300 limit has already been exceeded by residential developments permitted within MIC Zone 1, including ABP-304405-19 (Rockbrook), ABP-303738-

19 D18A/0758 (Beacon South Quarter) and ABP-305940-19 (Sandyford Central). The applicant's analysis states that the permitted quantum of residential development at the MIC zone now amounts to a total of 1,943 units (I note that the CE Report refers to a lower cumulative total of 1,356 units in this context). It is also stated that there have been no permissions for residential development on MOC zoned lands. The proposed 190 no. units would therefore result in a cumulative total of 2,133 no. units in MIC Zone 1 and MOC Zone 2 (assuming the higher base figure of 1,943 units). While this is significantly greater than the quantum of 1,300 units originally envisaged, I do not consider that the additional quantum is excessive given wider considerations in terms of regional and national planning policy. I note that the SUIP predates the NPF and the EMRA RSES. I consider that the delivery of residential development on this prime, underutilised, serviced site, adjacent to a public transport node, would be consistent with the policies and intended outcomes of current Government policy, specifically the NPF, the RSES, the Sustainable Residential Development Guidelines and the Apartment Guidelines, which all look to secure more compact and sustainable urban development in the Dublin Metropolitan Area. In particular, the development will support several key objectives of the NPF, including NPO 2a which states that a target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs; NPOs 3a and 3b which aim to deliver at least 40% of all new homes nationally within the build-up of existing settlements and to deliver at least 50% of all new homes in the five main cities within their existing built-up footprints; NPO 13 which stipulates that 'in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth'; NPO 32 which sets a target of 550,000 no. additional homes to 2040; NPO 33 which prioritises the provision of residential development at appropriate scales within sustainable locations and NPO 35 which notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights. I also consider that the development will support RSES Regional Policy Objectives RPO 3.2 to promote compact urban growth with a target of at least 50% of all new homes to be built within or contiguous to the existing built up area of Dublin City and suburbs, RPO 5.4

that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards and RPO 5.5 that future residential development within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns. I therefore consider that there is ample justification to permit the proposed quantum of development at this location.

The CE report refers to a recent Board decision in relation to 142 no. apartments on lands at Tolka Park, Ballyogan Road, Dublin 11, ref. ABP-310609-21, within the jurisdiction of Dublin City Council. The lands in question are zoned 'Z6 Employment/Enterprise' under the Dublin City Development Plan 2016-2022, with the stated objective 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. Residential development is 'Open for Consideration' under the Z6 objective. The detailed objectives for Z6 lands state:

It is considered that Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. The uses in these areas will create dynamic and sustainable employment ...

The permissible uses above will be accommodated in primarily office-based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities, including crèche facilities, public open space, green networks and leisure facilities. A range of other uses including residential, local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby district centres.

The development plan also states the following in relation employment development in the Z6 zone:

To create dynamic and sustainable employment areas. Any redevelopment proposals on Z6 lands should ensure that the employment element on site should be

in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.

And in relation to residential and other uses:

To incorporate mixed uses in appropriate ratios. All such uses, including residential and retail, shall be subsidiary to employment-generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city over the Development Plan period and beyond and shall not detract from existing centres.

The development proposed under ABP-310609-21 comprised 97% residential floorspace and 2.5% other uses. Dublin City Council stated serious concerns that the size and scale of the residential proposal did not comply with development plan objectives, noting the proposed rezoning of Z6 lands under the draft development plan, which must be done in a coordinated way to ensure that the lands are planned and delivered appropriately. DCC had already undertaken a review of Z6 zoned lands on foot of an objective in the 2016 City Development Plan, which culminated in the rezoning of a number of industrial sites across the city in 2019 brought forward by way of a variation to the extant Development Plan. The development site of ABP-210609-21 was not re-zoned at that time. DCC considered that the ongoing and piecemeal development of industrial zoned lands such as the Tolka Estate is premature in the context of proposed rezoning of the Z6 lands and would lead to piecemeal, haphazard development and recommended refusal on this basis. The Inspector's report of ABP-310609-21 noted that other developments permitted by the Board on Z6 lands had been on sites at inner city locations or related to smaller developments. The Board refused permission for the following reason:

The proposed development materially contravenes the policy considerations set out in Section 14.8.6 of the Dublin City Development Plan 2016-2022, in particular having regard to the context of the site and its environs, which are zoned and in use as Z6 "Employment/Enterprise", the primary objective of which is "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation". The policy context for the area, requires that other uses, such as residential, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning

objective. The proposed development fails to satisfy this policy requirement. The Board is not satisfied that the provisions of section 37(2)(b) apply, and in that context, consider that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the City Development Plan vision for this wider area as a place of enterprise and employment.

Having examined the above case in detail, I note that it was considered in the context of a review of Z6 lands by Dublin City Council, which had specifically excluded the relevant site. There were also particular concerns about piecemeal development and non-compatible land uses in that instance, being a standalone site in an area mainly characterised by low intensity industrial and warehousing uses. The current development site adjoins several existing/permitted residential developments and is located in an emerging mixed use area where there is already a significant amount of services and amenities. It is also adjacent to several well-established residential areas. I note that the Board has granted permission for residential developments on Z6 lands where there has been a predominance of residential use, having regard to the locational context of the site and to the scale of development proposed. I also note that the Dublin City Development Plan specifically requires that any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to redevelopment in terms of the numbers employed and/or floor space. There is no similar provision under the MOC zoning objective. The Board is also referred to the discussion below on BTR development and office land uses in the MOC Zone, which considers the available quantum of office development in Sandyford and the projected demand for same and concludes that there will be low demand for additional office floorspace at Sandyford.

Overall, I consider that the proposed residential development is acceptable in principle in this instance, having regard to the immediate context of the development site, and with regard to the wider context of the permitted quantum of residential development on MIC Zone 1 and MOC Zone 2 lands, as discussed above. I also consider that the development does not materially contravene the MOC zoning objective.

10.2.2. Residential Density

I note from the CE Report that the Elected Members of DLRCC stated concerns that the proposed residential density is too high for the area and that the development would result in overdevelopment of the site. The development has a stated gross residential density of c. 504 units/ha, or a net density of c. 711 units/ha (excluding DLRCC owned lands), with a stated plot ratio of 1:5. Development plan policies RES 3 and RES 4, as set out above, are noted. SUFP Map 2 'Plot Ratios/Residential Densities' indicates a plot ratio of 1:3 for the development site. Policy SUFP 2 Density and Scale is to ensure that Sandyford Business District develops in an orderly manner in accordance with the increase in uses set out in the objectives of the plan and the density and plot ratio set out in Map 2. The CE Report notes that Map 2 of the SUFP permits a maximum density of 175 units/ha within the SUFP area and the planning authority therefore considers that the development exceeds the density ranges envisaged for the SUFP lands.

The applicant's Material Contravention Statement addresses the matter of residential density in the context of the overall quantum of residential development and building height issues. The development site meets the criteria for a 'central and/or accessible urban location' as set out in section 2.4 of the Apartment Guidelines given its strategic location immediately adjacent to a public transport node and within a significant employment location. The Apartment Guidelines state that such locations are generally suitable for small to large scale higher density development with no maximum density set. I am satisfied that the provision of higher density residential development is acceptable in principle at this location in the context of national and regional planning policy, as discussed above in relation to the overall quantum of development, notwithstanding that the proposed residential density significantly exceeds the parameters recommended for the development site under the SUFP.

10.2.3. Housing Mix

The development provides 92 no. one bed units (49%), 86 no. two bed units (45%) and 12 no three bed units (6%). Development plan policy RES 7 is to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the county in

accordance with the provisions of the Interim Housing Strategy. Development plan section 8.2.3.3(iii) states:

Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.

DLRCC considers that a higher provision of three bed units for the rental market would create a sustainable residential community at this location. Refusal reason no. 4 recommended by the planning authority refers to “the inadequate unit mix, and in particular the insufficient provision of 3-bedroom units”. DLRCC also recommends a condition requiring that 10% of the total number of units shall be three bed units, if permission is granted.

The submitted Material Contravention Statement addresses the issue of housing mix in its consideration of the standards for housing development set out in development plan section 8.2.3.3. The applicant submits that the proposed development will improve the quantity and mix of residential stock at this location, which is particularly well served in terms of public transport, education, local retail, recreational and associated social infrastructure. While I note the concerns of the planning authority regarding the high proportion of one and two bed units in the development, I accept that the provision of a greater mix of housing units, including the provision of smaller units, is desirable at this location in the context of providing a more varied housing typology for the wider DLR area. I also note that SPPR 8 of the Apartment Guidelines provides that there shall be no restrictions on dwelling mix for BTR developments. The proposed housing mix is considered acceptable on this basis.

10.2.4. Housing Tenure

The elected members of DLRCC comment that the current housing model is over reliant on renting and that the development should also support owner occupancy. Section 5 of the Apartment Guidelines provides guidance on the BTR and Shared Accommodation sectors. BTR is defined as:

Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.

I am satisfied that the development meets the requirements of SPPR 7 of the Apartment Guidelines with regard to BTR development. The application is advertised and adequately described in the documentation on file as a BTR development. The application includes a draft section 47 agreement between the developer and the planning authority, which specifies that the development shall remain owned and operated by a single entity for a period of 15 years from the date of permission and that no individual residential units shall be let or sold separately during this period. The application also provides proposals for resident support facilities and resident services and amenities and includes a Building Lifecycle Report, which states that a property management company will be established in accordance with the Multi-Unit Developments Act 2011.

The applicant has set out a detailed rationale for the proposed BTR development at this location, including observations by CBRE Ireland, which provide information on the commercial viability of the development in the context of the current housing market, as well as available socio-economic data and the demographics of the area. CBRE notes that there is a strong demand for residential accommodation at this location due to the proximity of employment opportunities as well as public transport and the services and amenities of the wider DLR area. There is currently a shortage of rental accommodation in the DLR area. Only 823 housing units were delivered in 2020, accounting for only 14% of all housing developed in Dublin in the period. 48% or less than 400 of these comprised apartments. Current demand is likely to increase given the volume of additional office space currently permitted or under development at Sandyford. Demographic analysis indicates a large concentration of young people living in the area with a large concentration of the typical household formation cohort of 20-39-year olds. The applicant's rationale also refers to the independent report "Assessment of the Sandyford Business District", prepared by economist Jim Power, which highlights the need for significant additional residential capacity in the area, to cater for an expected increase in the working population, which is projected to double from 25,000 to 50,000 by 2028. The development site is currently undeveloped and represents an opportunity to meet this housing need at a highly accessible location, in close proximity to employment centres and social infrastructure, in a compact form comprising well-designed, higher density units that

would be consistent with policies and intended outcomes of current Government policy.

I concur with this assessment and consider that there is satisfactory justification for BTR development at the subject site, having regard to its location in an employment centre and beside high quality public transport facilities. The proposed residential type and tenure will provide a viable housing solution to households where home-ownership may not be a priority and will provide a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland.

10.2.5. Office Land Use in the MOC Zone

SUFP Objective DS1 provides for additional 350,000 sqm of office floorspace, to consist of 250,000 sqm of additional space and 100,000 sqm of floor space created by the redevelopment of existing sites. The CE Report states no objection to the proposed 518 sq.m. of office floorspace and this element of the development is considered to be acceptable in principle. With regard to the stated concerns of the planning authority in relation to permitting residential accommodation at the expense of the development of office floorspace at Sandyford, I note the information provided in the submitted CBRE observations. The analysis states that the Sandyford area is already well served in terms of office and hotel accommodation with more than two years of annual average take-up currently vacant in the area and with several potential schemes already permitted, which will provide a total of 6.75 years supply, such that additional office space is not required. The analysis also states that there was an office vacancy rate of 10.1% in the Dublin south suburbs at the end of Q1 2021, with more than 80,000 sq.m. of accommodation available to let. It is submitted that additional office space at this stage would be likely to increase the level of vacancy in the area. CBRE concludes that the provision of housing in Sandyford is more pressing at this juncture particularly considering the age profile of the existing demographic in the area. These points are accepted with regard to the above analysis of the proposed quantum of residential accommodation.

10.3. **Design and Layout of Development**

10.3.1. Proposed Design and Layout and Relevant Policies and Objectives

Several interrelated policies and objectives of the development plan and SUFP are relevant. Development plan SLO 109 and SUFP Objective MC 8 seek the provision

of a use that animates the street corners at the north western end of Ballymoss Road at the junction with Blackthorn Drive. Development plan SLO 121 is to ensure the provision of pocket parks and civic spaces at various locations including the development site. In addition, SUFP Objective MC 9 is to locate uses that enliven, and attract customers fronting the routes leading to the Luas, particularly along Ballymoss Road. SUFP section 2.3.2.3 also requires that office accommodation should be designed with frontages that relate well at street level so as to interact with the pedestrian and by protecting residential amenity of adjoining blocks through orientation and design. SUFP Objective DS 3 states that the layout of developments with a plot ratio greater than 1:2 should take the form of streets in order to contribute to the vibrancy of core areas. SUFP Objective PR 7 requires the provision of a generous crossing point at the public transport interchange at Blackthorn Avenue, with clearly defined building edges and a set back building line at the junction of Ballymoss Road and Blackthorn Avenue and the provision of a shared surface environment along the entirety of the route. Objective PR 8 also requires an urban plaza at the northern end of Ballymoss Road at the junction with Blackthorn Avenue to enhance legibility of the pedestrian and cycle route from the planned transport interchange. The extent of the plaza includes the development site and the RCSI site at the opposite side of Ballymoss Avenue. The plaza is to be complemented by a 'building of notable design' at the development site, as indicated in SUFP Map 3. Finally, SUFP section 3.5.1 specifies the following design principles for sites at the northern end of Ballymoss Road including the development site:

- Have building lines sculpted to provide a civic plaza and an entrance to the estate.
- On the site adjacent to Rockbrook site – provide a building form, which would serve as a visual reference or orientation marker within the estate.
- Provide ground floor uses, which would animate and provide extended life to the plaza.
- Be modelled to minimise impact upon neighbours and step with the sloping land.

The applicant's design rationale describes in detail that the development has been designed to respond to its context, which comprises 10-17 storeys at Sandyford

Central to the immediate west of the site and 5-14 storeys at Rockbrook, further to the west at Blackthorn Drive. The development comprises two blocks, Blocks 1 and 2, which are generally laid out on a north/south axis, with the gable ends facing Blackthorn Avenue. It is submitted that this orientation allows for maximum potential for sunlight penetration between the blocks. Block 2, at the Ballymoss Road/eastern side of the site, is 14 storeys and Block 1, at the Sandyford Central/western side of the site, is 15 storeys. The blocks step down towards the southern site boundary, such that the southern side of Block 2 is 13 storeys and the southern side of Block 1 is 14 storeys. The buildings are clad in dark grey/blue brick with lighter coloured grey brick elements. There are metal clad volumes with gold insets on the elevations facing Blackthorn Avenue and Ballymoss Road, at the north eastern corners of both blocks. The metal panels are intended to create visual interest and to enhance the visual presence of the scheme at Blackthorn Avenue and in the wider area, particularly the vista from St. Raphaela's Road to the north. Vehicular access to the basement car park is from Ballymoss Road at the south eastern corner of the site. There is a single storey link between the blocks and a café kiosk at the northern end of the site, facing Blackthorn Avenue. The area of the site north of the café kiosk is laid out as a public plaza at the Blackthorn Avenue and Ballymoss Road site frontages, in accordance with related SUFP and development plan objectives. The edges of the public area are defined by the café kiosk and by an extended column and beam portico at the western side of the plaza. The public plaza area includes lands in the ownership of DLRCC at Blackthorn Avenue, such that pedestrian and cycle infrastructure are integrated with the development frontage. The public realm includes hard surfaces, soft landscaping, bicycle parking and seating areas. The proposed elevational treatments differentiate the ground floor from the rest of the development. The ground floor units have generous floor to ceiling heights and the ground floor uses of the blocks facing the public plaza and Ballymoss Road provide active frontages with multiple access points, including offices with reception and meeting spaces with large areas of glazing overlooking the street and public seating areas associated with the restaurant and café kiosk. There is also a restaurant and gym at the Ballymoss Road frontage, which are both directly accessible from the street at this location. The submitted design rationale and landscaping proposals describe that the ground floor façades, public plaza, café kiosk, colonnade,

landscaping and external seating areas are designed to provide a coherent visual identity with defined edges, a considered, durable palette of materials including stone features and a distinctive architectural language.

There is partially raised, landscaped garden between the single storey link structure and the rear of the café kiosk, which leads to the reception, service cores and residents' communal amenity areas on the ground floors of the blocks. This area is characterised by soft landscaping with natural features and seating areas. There is a further small, landscaped courtyard to the rear of the single storey link, which is to serve as a communal amenity for residents, with a children's play area, exercise, barbeque and seating areas. The internal communal amenity and circulation areas front onto the courtyard. Both blocks have roof terraces, which are enclosed by 1.8 m high glazed screens. The roof gardens have areas of hard and soft landscaping, barbeque and seating areas and play areas, with glazed rooftop pavilions, which are to serve as amenity spaces for residents of the development.

The quantitative public open space provision is as follows:

Public Open Space	Area
Public plaza	565 sq.m. (15% of site area)
Landscaped garden to rear of kiosk	207 sq.m.
Total	772 sq.m.

This provision is well in excess of the 10% minimum public open space provision required by development plan section 8.2.2 for apartment developments irrespective of occupancy standards, notwithstanding that the public plaza includes an unspecified small area owned by DLRCC, which may not be included in the quantitative calculation of public open space (amenity space provision is considered further below). The CE report states concerns about the design of the proposed public plaza and the context of the surrounding buildings, referring to drawing no. 11 of the SUIP, which illustrates a six-storey building splayed/curved around the plaza. Drawing no. 11 provides a high level, indicative layout for the development site in the context of the wider SUIP area and, while the proposed development does not exactly follow the indicated line, I consider that there is scope for interpretation of this

guidance and that the proposed set backs from the Ballymoss Road and Blackthorn Avenue frontages provide a satisfactory quantum of public amenity space. I also note the DLRCC comment regarding the use of hard landscaping in the public spaces, however, having regard to the submitted detailed landscaping scheme, I am satisfied that the development will achieve a reasonable balance between the provision of hard and soft landscaping and seating areas and the need to provide a practical treatment for an area that will have a high volume of pedestrian traffic given its pivotal location opposite the Luas stop. I also note the analysis of sunlight to amenity spaces provided in the Daylight, Sunlight and Overshadowing Study, which indicates that 77% of the public amenity space will receive at least two hours of sunlight on 21st March, which is well in excess of the 50% standard recommended in BRE guidance. In addition, the wind and microclimate modelling indicates that wind/climate impacts have been considered throughout the design process, with appropriate design measures incorporated, such that wind flow speeds at ground level will be within the comfort categories defined by the Lawson Scale. The model includes cumulative impacts associated with adjacent development at Sandyford Central, Rockbrook and Carmanhall Road. It indicates some minor funnelling effects at the north western corner of the public open space, such that the space would be suitable for 'standing or short term sitting' rather than 'long term sitting'. However, it is proposed to mitigate these impacts by way of tree planting, which is acceptable.

I am satisfied that the development is generally consistent with the overall vision of the development plan and the SUFP for this key site at a prominent, gateway location in Sandyford. It will present active frontages and a public plaza at the junction of Ballymoss Road and Blackthorn Avenue, opposite the Luas stop, as required under SLOs 109 and 121 and objectives MC 8, MC 9, PR 7, PR 8 and DS 3. The design incorporates pedestrian and cycle infrastructure and provides multiple access points, with landscaping, public seating, amenities and a coherent design aesthetic. I note the concerns of DLRCC, as stated in the CE report, regarding the ability of the development to meet the SUFP requirement for a 'building of notable design' at this location:

The Planning Authority considers the proposed development as two tall structures of acceptable design but that lack the sufficient character, design merit to reach the status of 'notable design'. From that perspective the Planning Authority considers

that the proposal does not enhance the urban design context as envisaged by the SUFP.

I consider with regard to the detailed design and LVIA, that the development meets the SUFP requirement for a 'building of notable design'. The proposed pair of blocks will have a strong visual identity that will be visible in the wider area, will act as a focal point and will add to the legibility of Sandyford. The interactions with neighbouring developments and impacts on amenities are considered separately below.

10.3.2. Daylight and Sunlight Issues

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

The applicant's Daylight, Sunlight and Overshadowing Study is based on recommendations outlined in the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice guide' (BRE Guide) which is also referred to as BRE 209 and the "BS 8206-2:2008: Lighting for Buildings - Part 2: Code of Practice for Daylighting". I have considered the report submitted by the applicant and have had regard to the above guidance documents. I note and acknowledge the

publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) but also note that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. It should also be noted at the outset that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

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

Section 10 of the Daylight, Sunlight and Overshadowing Study considers daylight to the proposed apartments in terms of Average Daylight Factor (ADF). In general, ADF is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum ADF values that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does, however, state that where a room serves a dual purpose the higher ADF value should be applied. All of the proposed apartments include a combined living /kitchen/dining room (LKD). The Daylight, Sunlight and Overshadowing Study provides ADF analysis for all apartments within the development. Section 10.3 of the Study applies a 1.5% ADF target for LKD rooms but also provides analysis of compliance with the 2% target.

I am satisfied that the applicant's Daylight, Sunlight and Overshadowing Study is based on a robust methodology, as set out in section 3 of same, and I see no reason to question its conclusions. The results presented may be summarised as follows:

Blocks 1 and 2	No. of Rooms Tested	No. of LKDs Tested	LKDs with ADF < 1.5%	LKDs with ADF 1.5% - 2%	No of Bedrooms Tested	Bedrooms with ADF < 1%
Level 01	33	13	6	3	20	1
Level 02	39	15	7	2	24	1
Level 03	39	15	5	3	24	0
Level 04	39	15	5	1	24	0
Level 05	39	15	5	2	24	0
Level 06	39	15	5	2	24	0
Level 07	39	15	4	2	24	0
Level 08	39	15	3	3	24	0
Level 09	39	15	1	5	24	0
Level 10	39	15	0	3	24	0
Level 11	38	15	0	1	23	0
Level 12	37	15	0	1	22	0
Level 13	20	8	0	0	12	0
Level 14	11	4	0	0	7	0
Total		190	41	28	300	3

The CE report considers that a 2% ADF target should be applied for LKD rooms in order to ensure that an adequate level of amenity is achieved, stating concerns in relation to the above level of compliance with the 2% target. The planning authority also notes that no Sky Line Assessment has been carried out to give a better understanding of the level of amenity that can be expected. Refusal reason no. 4 recommended by DLRCC refers to the number of units that fail to achieve satisfactory ADFs in accordance with the recommendations of the BRE Guide and BS 8206-2: 2008. In addition, DLRCC recommends a condition requiring that

combined LKD rooms shall achieve an ADF of at least 2%, if permission is granted for the development.

I am satisfied that the applicant's Daylight, Sunlight and Overshadowing Study provides adequate information to consider daylight levels within the proposed apartments given that it considers all LKD rooms against both 1.5% and 2% ADF targets, as well as all bedrooms against the 1% ADF target. The applicant's Daylight, Sunlight and Overshadowing Study states that the 1.5% ADF target for LKDs is applied on the basis that it is more appropriate for the combined living, kitchen, dining area as it relates to the main activity, with the design constraint of the kitchen position at the back of the living space, where it is classed as a "non-habitable transient space" with a functional purpose for food preparation and not as a long-term sitting area. It is submitted that it is challenging to achieve the 2% ADF value for kitchens within open plan living spaces, given that not every space within a commercially viable apartment development can be in direct connection with an exterior elevation. I accept this argument, given that, in apartments, most time would be spent in the living/dining area of a LKD room, rather than in the kitchen area, and I consider that, in general, the higher 2% ADF target for combined LKDs is more appropriate for a traditional house layout than for a high density apartment development. I accept that, as submitted by the applicant, it is a significant challenge for large open plan LKD rooms to achieve 2% ADF targets in urban apartment developments. Often in urban schemes there are challenges in meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape. I am therefore satisfied that the 1.5% ADF target for LKD rooms is acceptable in this instance.

A total of c. 78% of the LKDs meet the 1.5% target. I consider that this is a reasonable level of compliance with the BRE standards, in particular noting that the BRE standards allow for a flexible and reasonable alternative for ADFs, and which in any event LKDs are not specifically stipulated in the BRE guidance. The overall level of compliance must also be balanced against achieving the wider planning objectives for this site, as outlined in the SUIP, and in light of the overall desirability of achieving optimum residential density on this infill site at a highly accessible urban location with regard to national planning policy on compact urban development and in view of the performance based approach of the Apartment Guidelines.

The Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out. Section 6.7 of the Apartment Guidelines also refers to cases where a development may not fully meet all of the requirements of the BRE guidance, due to design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives such as securing comprehensive urban regeneration and or an effective urban design and streetscape solution. The Apartment Guidelines advises planning authorities to apply discretion in such cases.

The applicant's Daylight, Sunlight and Overshadowing Study states that the lower ADF value of LKDs will be compensated for by the following compensatory design measures:

- 100% of the apartment units have a floor area more than 10% above the minimum floor area requirements. It is submitted that larger apartments make it more difficult to achieve the recommended daylight levels.
- 37.3% of the apartment units are dual aspect which is above the 33% minimum requirement. As a result, more apartment units than the recommended minimum will achieve quality daylight from dual-aspect orientations.
- There are no single aspect north facing units, thus contributing to better daylight and sunlight penetration.
- All apartment units have a balcony even though balconies are not required as part of a BTR scheme. While the provision of a balcony has a negative impact on internal daylight levels, this is offset by the provision of private amenity space.
- The majority of the communal open space is situated to the south of the site at ground floor level and at the southern side of the roof terraces. In addition, 20% public open space has been provided which is double the 10% minimum requirement.

In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am satisfied that the design and layout of the development has been fully considered

alongside relevant sunlight and daylighting factors. The standards achieved, when considering all site factors and the requirement to secure comprehensive urban regeneration of this highly accessible and serviced site within the Dublin Metropolitan Area with a positive and active urban edge, in accordance with national and local policy guidance, are in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants.

10.3.3. Residential Amenity of Apartments

The apartments are designed to comply with the standards set out in the Apartment Guidelines, having regard to the relaxations provided for BTR developments as per SPPR 8 of same. The Housing Quality Assessment indicates apartment floor areas that meet the requirements of SPPR 3. The development provides c. 37% dual aspect units, which exceeds the requirement of SPPR 4 for 33% dual aspect units at central and accessible urban locations. There are no single aspect north facing units. The development also achieves the floor to ceiling heights specified in SPPR 5. There is a maximum of 10 units per lift/stair core as per SPPR 6, notwithstanding the provision of SPPR 8 (v) that the requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes. All of the units exceed the minimum floor area standards by at least 10%, notwithstanding that SPPR 8 (iv) states that the requirement for the majority of all apartments in a scheme to exceed minimum floor areas by a minimum of 10% shall not apply to BTR schemes. I note the concerns of the DLRCC elected members regarding inadequate storage space, however SPPR 8 (ii) provides that flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 of the Guidelines and, in any case, all units in the development have private open space and storage areas in accordance with the Appendix 1 standards notwithstanding this relaxation. I am therefore satisfied that the development generally meets the quantitative requirements of the Apartment Guidelines for BTR development.

DLRCC recommends a condition that at least 50% of the total units shall be dual-aspect, if permission is granted. Development plan section 8.2.3.3 (ii) states that developments are expected to provide a minimum of 70% dual aspect units with north facing single aspect units only considered under exceptional circumstances. It also states:

A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light.

The development achieves c. 37% dual aspect units. While this is less than the 70% standard above, I note that the development plan standard is to be considered on a 'case by case basis'. The development is therefore not considered to materially contravene the development plan in this respect, noting also that the applicant's Material Contravention statement addresses consistency with the requirements of section 8.2.3.3. Having regard to my above assessment that the development site has a 'central and/or accessible' location as per the Apartment Guidelines, the dual aspect requirement under SPPR 4 would be a minimum of 33% of all units, which is well exceeded. The development does not include any single aspect north facing units. The proposed provision of dual aspect units is therefore considered acceptable, notwithstanding the planning authority concerns in relation to this issue.

The CE Report states concerns about the intervening distance between Blocks 1 and 2, noting development plan section 16.3.3, which states:

The minimum clearance distances of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storey in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.

The recommended refusal reason no. 4 refers to inadequate separation distances between blocks and the planning authority also recommends a condition requiring that above ground level no windows and/or balconies shall be located within less than 22m from a directly opposing window balcony, if permission is granted. The submitted drawings indicate an intervening distance of 20 m between the internal facades of Blocks 1 and 2. Balconies are staggered such that they do not directly overlook, however there is a minimum of 16.35 m between balconies and directly overlooking windows. I consider that the above policy statement allows for some flexibility in the interpretation of the 22 m standard, and I consider that the proposed development does not materially contravene the development plan in this regard.

The planning authority does not consider that the proposed development is an instance where such a relaxation would be acceptable as it considers that a sustainable, less dense development could be achieved at the site with regard to national planning policy. However, I consider that the proposed separation distance is reasonable given that the development is generally in accordance with the quantitative standards of the Apartment Guidelines and given that the development will make a significant contribution to the achievement of wider national and regional planning objectives, as discussed above.

10.3.4. Communal Open Space, Residents' Services and Amenities

As outlined in the CE report, the elected members of DLRCC have raised concerns that the development provides insufficient quality and quantity of open space considering the density of units proposed. They also state particular concerns about the roof gardens and the provision of play areas at this location, stating also that a play area should be provided to cater for the three bed units.

The proposed development provides the following public and communal open spaces:

Location	Area
Ground floor communal amenity courtyard	521 sq.m.
Roof terraces	Block 1 253 sq.m. Block 2 449 sq.m.
Total communal amenity space	1,223 sq.m.
Total public open space	772 sq.m.
Total combined public and private open space	1,995 sq.m.

The development therefore provides a total communal amenity space of 1,223 sq.m., comprising the communal courtyard at ground floor level and the roof garden spaces. This amounts to a provision of 6.5 sq.m. of external amenity space per apartment. Development plan section 8.2.2 sets out quantitative requirements for public/communal open space provision for apartment developments, which may be considered with regard to the subject proposal as follows:

Unit Type	No. of Units	Population	Development Plan Requirement 15 – 20 sq.m. per person
1 bed	92	92 x 1.5 = 138	
2 bed	86	86 x 1.5 = 129	
3 bed	12	12 x 3.5 = 42	
Total	190	309	4,635 sq.m. to 6,180 sq.m.

The proposed combined public and private open space provision of 1,995 sq.m. falls below the above standard (the development plan does not distinguish between public and communal open space in residential developments). The development may be considered with regard to the quantitative standards for communal open space set out in Appendix 1 of the Apartment Guidelines as follows:

Unit Type	No. of Units x Space Required	Total Communal Open Space Required
1 bed	92 x 5 sq.m. per unit	460 sq.m.
2 bed	86 x 7 sq.m. per unit	602 sq.m.
3 bed	12 x 9 sq.m. per unit	108 sq.m.
Total	190 no. units	1,170 sq.m.

The proposed quantitative communal open space provision therefore exceeds the requirements of the Apartment Guidelines, notwithstanding that SPPR 8 (ii) allows for flexibility in relation to the provision of communal amenity space as set out in Appendix I, on the basis of the provision of alternative compensatory support facilities and amenities. I also note that section 5.11 of the Apartment Guidelines provides that the nature and extent of the resident services and amenities serving BTR developments may be agreed by the developer and the planning authority having regard to the scale, intended location and market for the development. The development provides the following internal facilities and amenities as set out in the submitted CBRE Amenity Report:

Internal Amenity / Facility	Amenity Area	Management Area
Management area		21 sq.m.
Parcel store		36 sq.m.
Multipurpose room	166 sq.m.	
Soft multipurpose room / play area	98 sq.m.	
Associated storage area		11.6 sq.m.
Entrance foyer / concierge	133 sq.m.	
Roof pavilions	68.4 sq.m.	
Bicycle service station		31 sq.m.
Study workspaces 29 sq.m. (not classified)		
Total resident amenity area	465.4 sq.m.	

The above provision results in a ratio of 2.4 sq.m. amenity floorspace per unit. It is submitted that this provision is generous when compared to adjacent developments, e.g. 1.9 sq.m. per unit at Sandyford Central, as well as several UK examples described in the CBRE Amenity Report. The proposed amenities are centrally located and will be accessible to all residents of the development. I am satisfied that the development will provide a high standard of services and amenities with regard to the Amenity Report and Building Lifecycle Report, which provide details of the design, operation and management of the spaces and facilities. In addition, the development includes a separate publicly accessible gym and is located in an emerging mixed use area, where a wide variety of services and amenities is available, such as at the Beacon South Quarter nearby. It is also close to long established residential areas and higher order district/town centres such as Stillorgan and Dundrum. I note the stated concerns of the planning authority regarding the cumulative impacts of high density developments in Sandyford and the resultant inadequate quantum of neighbourhood amenity areas, as provided for under the SUFP. SUFP drawing no. 11 indicates an amenity space nearby at Carmanhall Road. While I accept that the Carmanhall Road space is limited in scale and will also serve several other residential developments including Sandyford Central and Rockbrook, I also consider that the site is located in the wider DLR area, which is replete with public amenities, noting also the highly accessible location of the site.

The Landscape Design Statement indicates that the proposed external amenity spaces will achieve a high quality of design and layout with active and passive spaces, hard and soft landscaping, seating and play/exercise areas. The Daylight, Sunlight and Overshadowing Study indicates that 95% of the ground floor communal courtyard and 83% of the rooftop amenity areas will receive over two hours of sunlight on 21st March, well in excess of the BRE recommended standard of 50%. The Microclimate Assessment of the development indicates that wind flow speeds at the ground floor amenity spaces would be within tenable conditions based on the Lawson Scale. The roof terraces are protected by 1.8m high glazed screens. A small area of the roof terraces is not suitable for long term sitting under worst case scenario conditions with regard to the Lawson comfort criteria, however it is submitted that such conditions are unlikely to arise during the summer months, when the roof terraces will be in use. This point is accepted and I consider, with regard to the Design Rationale and Landscaping Scheme, that the external amenity spaces will generally provide a high standard of amenity for residents of the development. The CE Report states concerns about the lack of passive surveillance of play areas located on the roof gardens. I share these concerns and I recommend that the roof garden play areas are omitted by condition if permission is granted.

Having regard to the Design Statement, to the landscaping proposals, to the Sunlight Reception Analysis and to the Microclimate Impact Assessment, I consider that the internal and external communal spaces within the development have a high standard of design and layout and will adequately serve as amenities for residents of the development. The proposed quantitative and qualitative provision of residents' services and amenities is therefore satisfactory and I consider that the development complies with SPPR 7 (b) of the Apartment Guidelines, which requires applications for BTR development to comprise residents support facilities and resident services and amenities.

10.4. Impacts on Visual and Residential Amenities

10.4.1. Visual Impacts

The site is not within any designated historic landscape or subject to any development plan objectives relating to protected views or prospects. There are no structures or features of historic importance such as Protected Structures or

Conservation Areas in the vicinity. I note the photomontage locations indicated in the Landscape and Visual Impact Assessment (LVIA). Based on the site inspection and on my knowledge of the area, I am satisfied that the viewpoints chosen are representative of views in the wider area and are sufficient for a comprehensive assessment of visual impacts of the development. I am also satisfied that the LVIA adequately considers cumulative impacts, presenting photomontages that include adjoining permitted developments.

The site has a prominent location at a gateway to Sandyford, as acknowledged in the SUFP. The development will form a local focal point and will be highly visible in the wider area, particularly in views from residential areas to the north of the site, ref. LVIA viewpoints (VPs) nos, 12, 13, 14 and 15. The LVIA assesses impacts at these locations as 'slight/moderate neutral'. I concur with this assessment. The development will change the outlook from these locations but will read as part of the emerging cluster of development at Sandyford, being lower than the adjoining Sandyford Central Scheme. The northern and eastern facades of the blocks have been designed to present attractive elevations, with high quality materials including metal inserts at the block corners. The development will have a distinctive appearance, which is considered to be commensurate with its location overlooking a public transport node and the related SUFP requirement for a 'building of notable design' at this site. I consider that the western and southern facades of the blocks are less successful, ref. VPs nos. 6, 7, 9, 10 and 11, and I note the stated concerns about visual impacts to the south and in the wider area, however I accept that the blocks present as several volumes with varied fenestration and finishes, providing some interest and avoiding monolithic façades. These views are therefore acceptable, subject to satisfactory external finishes, which may be required by condition. The LVIA assesses impacts at these VPS as 'imperceptible/neutral', which is accepted given that the development will be viewed from these locations in the context of the adjoining developments at Sandyford Central and Rockbrook developments. The ground floor facades and public plaza will be the most visible elements of the development in nearby views, including from the Luas stop, ref. VPs nos. 5 and 12. As discussed above, I am satisfied that the development and public plaza will interact successfully with the surrounding urban realm. I concur with the

LVIA assessment of impacts at these locations as 'imperceptible to neutral' at VP 5 and 'moderate neutral' at VP 12.

The LVIA notes proposed mitigation measures comprising the landscaping and public plaza at ground level. These measures will help to integrate the development in its immediate context and will improve views of the development from the adjoining streets and Luas stop but will have little or no impact on views from the wider area. However, I am satisfied overall that the development will read as part of an emerging cluster of large scale developments in Sandyford and I do not consider that it will have any significant adverse visual impacts such as would warrant a refusal of permission.

10.4.2. Daylight and Sunlight Impacts

The submitted Daylight, Sunlight and Overshadowing Study considers potential effects of the development on daylight Vertical Sky Component (VSC) and Annual Probable Sunlight Hours (APSH) at adjacent residential properties, with regard to the BS 2008 Code of Practice for Daylighting and the BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). As discussed in relation to daylight levels within the proposed apartments, the applicant's analysis also refers to the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK), however this updated guidance does not have a material bearing on the outcome of this assessment and the relevant guidance documents in this case remain those referred to in the Urban Development and Building Heights Guidelines, i.e. BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I have used these guidance documents to assist in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and to increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.

The Daylight, Sunlight and Overshadowing Study considers impacts to the immediate west and south of the development site, as well as other locations in the wider area. The closest permitted block within Sandyford Central to the west of the

development is Block D (17 storeys), which is c. 29-24 m from the eastern elevation of Block 1. Sandyford Central Block E (10 storeys) is also nearby to the south west of the development, being 13.7 m from the south western corner of Block 1. The eastern elevation of Block D, as detailed in the drawings submitted under ABP-305940-19, presents windows and balconies that will face the western elevation of Block 1. The Goatstown Stillorgan Educate Together N.S at Grafton House is situated to the immediate south of the development, with the southern elevations of Blocks 1 and 2 being c. 14m from the existing northern elevation of Grafton House.

In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a windows) within a structure. The BRE guidelines state that if the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value occupants of the existing building would notice the reduction in the amount of skylight. The submitted Daylight, Sunlight and Overshadowing Study considers potential impacts against (i) the existing situation and (ii) a baseline “base case” modelled on a six storey office structure at the development site, as provided for under the SUFP (it is submitted that a six storey office building would be equivalent in height to an eight storey residential structure). The results of the applicant’s VSC analysis at each location may be considered separately as follows.

The Goatstown Stillorgan Educate Together N.S. will be affected by the development. The detailed VSC results for windows to rooms on the northern side of this structure are as follows (rows highlighted are non-compliance with the BRE guidance figures):

Room No.	Window Ref.	Existing VSC	SUFP VSC	Proposed VSC	Proposed VSC (% of existing)	Proposed VSC (% of SUFP VSC)
1	1	30.51	28.93	28.04	92%	97%
	2	30.51	28.48	27.69	91%	97%
	3	30.83	28.08	27.6	90%	98%
	4	35.23	11.98	7.84	22%	65%
	5	34.27	14.32	10.58	31%	74%

2	6	34.18	15.9	10.62	31%	67%
3	7	33.06	15.78	9.82	30%	62%
4	8	32.96	14.69	10.31	31%	70%
	9	32.49	13.71	7.89	24%	58%
	10	15.95	12.33	11.79	74%	96%

As can be seen, windows in all rooms failed to meet the BRE recommendations, being lower than 27% or less than 80% of the former value. The applicant's Daylight, Sunlight and Overshadowing Study comments that the results relate to multiple windows within a single space. Room 1 has 5 windows and should continue to receive adequate levels of daylight. Occupants within Rooms 2 and 3 will notice a reduction in light received, however, the large windows in place would help to reduce the overall impact. Room 4 is also dual aspect with multiple windows to the space, large windows in some instances, which again would help to reduce the overall impact of the proposed development. The temporary nature of the school use is also noted, with the school permission ref. D18A/1210 to run for five years until 2023. It is submitted that the proposed development itself will not be in place until after the temporary permission expires, and that the adjacent site may return to its original commercial use after that date. While I accept the temporary nature of the school, I note that the adjoining site to the south is also within the MOC Zone 2 area as per SUFP Map 1 and is therefore subject to the same zoning objective as the development site. The proposed aparthotel on the adjoining site, currently under appeal ref. ABP-310690-21, has windows on its northern elevation, set back c. 13m from the shared boundary. These could be overshadowed by the proposed development, however I also note that the development of the subject site to a height of six storeys, as envisaged under the SUFP, would also result in VSC values that would not meet the BRE guidance at the adjoining site to the south.

The Daylight, Sunlight and Overshadowing Study analyses 30 points on the eastern side of Sandyford Central Block D, to the immediate west of the development. A total of 17 of the 30 points tested meet the BRE guidance. The non-compliant results may be summarised as follows:

Point	Existing VSC	SUFP VSC	Proposed VSC	Proposed VSC (% of existing)	Proposed VSC (% of SUFP VSC)
12	25.22	24.96	19.33	77%	77%
16	23.76	23.29	15.58	66%	67%
17	39.09	39.05	25.83	66%	66%
18	39.03	39.02	24.93	64%	64%
20	21.96	20.38	10.79	49%	53%
21	38.64	36.21	22.45	58%	62%
22	38.94	36.62	24.93	64%	68%
24	20.64	16.45	8.06	39%	49%
25	37.98	31.45	20.26	53%	64%
26	38.6	32.4	22.98	60%	71%
28	20.19	12.53	6.37	32%	51%
29	37.73	26.8	18.44	49%	69%
30	37.92	28.49	21.69	57%	76%

I note that the existing VSC value is less than 27 in five of the above instances. In the remaining cases, the % impact ranges between 49% to 66%.

The Study also considers a total of 20 no. locations on the northern and western sides of the permitted Block E in Sandyford Central, located to the south west of the development. A total of 8 of the 20 points analysed did not meet the BRE guidance. Again, the non-compliant results may be summarised as follows:

Point	Existing VSC	SUFP VSC	Proposed VSC	Proposed VSC (% of existing)	Proposed VSC (% of SUFP VSC)
7	17.68	17.47	10.62	60%	61%
8	30.44	30.29	22.87	75%	76%
11	17.44	15.42	9.7	56%	63%

12	29.47	27.87	20.42	69%	73%
15	17.31	12.48	8.29	48%	66%
16	28.25	24.4	18.83	67%	77%
19	16.72	9.47	7.69	46%	81%
20	27.63	21.14	16.75	61%	79%

The Study states that, at the above locations where proposed VSC values are between 15% and 25%, adequate daylight would still be expected given the larger than conventional windows on this property (4 out of 20 points tested relative to the existing situation and relative to the SUFP). However, there are four remaining locations where the proposed VSC value is less than 0.8 times its former value (that of the Existing /SUFP), with VSC values ranging between 9.7 to 10.62.

The Daylight, Sunlight and Overshadowing Study notes that the BRE guide refers to some situations where meeting a set ADF target value with a new development in place can be an appropriate criterion for assessment of loss of light: "Point (ii) 'as a special case of (i), where the existing building is proposed but not built. A typical situation might be where the neighbouring building has received planning permission but not yet been constructed.'" The Study provides analysis of projected ADF calculations at Sandyford Central Blocks D and E, based on the available details for that development, with the target ADF values of 1% for bedrooms and 1.5% for LKDs. The Study presents the following results for Sandyford Central Block D:

	Existing Situation	SUFP	Proposed Development
No. of rooms tested	132	132	132
Bedroom passes	62	59	52
Living room passes	56	55	48
Fail	14	18	30
% pass	89%	86%	76%

The following results are presented for Sandyford Central Block E:

	Existing Situation	SUFP	Proposed Development
No. of rooms tested	132	132	132
Bedroom passes	62	59	52
Living room passes	56	55	48
Fail	14	18	30
% pass	89%	86%	76%

The Study concludes from the above that the development will have a minor adverse impact on Block D when compared to the impact associated with a 6 storey office development at the site, as provided for under the SUFP. It concludes that the development would have a negligible adverse impact on Block E when compared to the SUFP.

The Daylight, Sunlight and Overshadowing Study also considers impacts on Annual Probable Sunlight Hours (APSH) to the south and west of the development. British Standard BS 8206: Part 2:1992 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours, including at least 5% of annual probable sunlight hours during the winter months (21st September to 21st March). If the available sunlight hours are both less than the amount given and less than 0.8 times their former value, either over the whole year or just during the winter months and reduction in sunlight across the year has a greater reduction than 4%, then the occupants of the existing building will notice the loss of sunlight. The BRE recommendations note that if a new development sits within 90° due south of any main living room window of an existing dwelling, then these should be assessed for APSH. The Daylight, Sunlight and Overshadowing Study therefore calculates APSH for adjacent windows meeting the following criteria:

- The existing building has living room with a main window which faces within 90 degrees of due south.
- Existing building is located to the North, East, or West of the proposed development.
- VSC of the existing window is less than 27%.

Block D at Sandyford Central meets these criteria. The Study assesses 23 no. locations on the eastern side of Block D. A total of 20 of the locations meet the BRE criteria for annual and winter APSH. The three locations that do not meet the annual criteria meet the winter criteria. In addition, the Study states that these locations did meet the annual criteria when tested with the balconies removed from the model.

The following points are noted in relation to the VSC and APSH analysis of other adjacent locations, as presented in the Daylight, Sunlight and Overshadowing Study:

- The analysis of residential properties at St. Raphaela's Road to the north of the site indicates compliance with the BRE guidance for VSC. The APSH analysis found that all points tested met the BRE criteria for annual and winter APSH.
- The analysis of the commercial Sherry Fitzgerald office building further to the south of the site at Ballymoss Road indicates that some windows on the lower floors of the northern side of the structure will not meet the BRE targets for VSC. However, the proposed VSC values are between 19% and 26% and hence adequate daylight is still be expected given the larger than conventional windows on this property, noting also the commercial nature of the use. This location was not analysed for APSH as it did not have living room windows that face toward the proposed building and are within 90 degrees of south.
- All windows analysed in the apartment building on Ballymoss Road to the south east of the development site meet BRE target VSC values, except for one marginal instance of 26.87%. This location was not analysed for APSH as it did not have living room windows that face toward the proposed building and are within 90 degrees of south.
- The development will have some overshadowing impacts on the RSCI building on the opposite side of Ballymoss Road to the east of the development. A total of 7 out of 12 points tested did not meet the BRE guidance values for VSC. It is submitted that the proposed VSC values are between 15% and 24% at two of those locations and hence adequate daylight should still be expected given the larger than conventional windows on this property. There are five locations where the proposed VSC is below 27 and ranging between 49% and 55% of the existing situation. This location was not analysed for APSH as it did not have living room

windows that face toward the proposed building and are within 90 degrees of South.

The Daylight, Sunlight and Overshadowing Study also considers impacts on amenity spaces within Sandyford Central to the west of the site and at the Grafton House site to the south, which is currently in use as the school playground. The results may be summarised as follows, with regard to the BRE recommendation that at least half of the amenity areas should receive at least two hours of sunlight on 21st March, or not less than 0.8 of its current situation. The following indicates the % of each area that will achieve more than two hours of sunlight on 21st March:

Location	Existing Area Meeting BRE Target	Projected SUFP % of existing	Proposed Development % of existing
Sandyford Central	100%	100% of total area 93.78% of existing	82% of total area 82.47% of existing
Goatstown Education Together	73%	73% of total area Unchanged	73% of total area Unchanged

Having regard to all of the above, it is clear that the development will have some overshadowing impacts on existing or permitted habitable rooms within the Grafton House site /Educate Together School to the immediate south of the site (noting the temporary nature of this use) and on adjacent residential units within the permitted Sandyford Central development to the immediate west (noting that this development is still under construction). The impacts on adjoining amenity areas are within accepted parameters as per the BRE guidance. I accept that any development of this zoned and serviced site at a prime location would result in some overshadowing impacts and on the development potential of adjoining sites, as indicated in the applicant's notional analysis of a 6/8 storey building at this site, as provided for under the SUFP. The assessed impacts at Sandyford Central are considered acceptable given the intervening distances, the highly accessible urban location of the development site, and the need to balance potential impacts against national planning policy to achieve compact urban development and increased residential

densities, particularly at sites served by public transport. The assessed impacts at the Grafton House site to the south are also considered acceptable given the temporary nature of the school use and given that any development of the subject site would have impacts at this location.

10.4.3. Other Impacts on Sandyford Central

The development site includes lands owned by the adjoining landowner at Sandyford Central, which is at a higher level than the development site. The application includes comprehensive details of the interaction between the development and Sandyford Central at ground level, including layouts, elevations, cross sections and boundary details. The permitted eastern boundary at Sandyford Central comprises landscaped platforms of varying levels, which mediate between Blackthorn Avenue and a raised internal courtyard deck within that scheme. The western side of the proposed development is to intersect with this layout at two levels, as detailed in section 4.4 of the applicant's design rationale. The proposed development continues the existing/permitted footpath at the western end of the Blackthorn Avenue frontage, with a raised planter to meet the adjoining landscaped platform within Sandyford Central. Railings will restrict public access at this location. Levels fall further to the south within Sandyford Central, with a 1.8m high metal boundary fence to the development site. It is proposed to landscape up to the fence along the shared boundary, with seating areas. There are also car park vents to the proposed basement car park within the proposed development, to the east of the Sandyford Central boundary. The applicant has explored the possibility of creating a pedestrian link to Sandyford Central, but submits that such a connection cannot be readily achieved due to the significant change in level at the boundary. It is also submitted that the adjoining landowner has not expressed any interest in facilitating a connection. The residual circulation space within the development side of the western boundary is narrow and further constrained by the presence of car park vents. However, It is overlooked by active office spaces at ground floor level. While I accept that it would be preferable to provide a 'shared' space between the developments, or at least a pedestrian connection, I consider that the proposed layout represents a reasonable solution in the absence of this option.

As noted above, the adjacent amenity spaces within the development and within Sandyford Central will achieve satisfactory levels of sunlight with regard to BRE

guidance. There are concerns about the creation of a 'canyon' between the 15 storey Block 1 within the proposed development and the 17 storey Block D within Sandyford Central. The Wind and Microclimate Modelling Report found some minor funnelling effects at the north western side of the development and at the south western corner of Block 1, however these impacts are deemed acceptable at this area will be used for walking rather than short or long term sitting, and there were no critical issues in regard to safety. The microclimate assessment concludes with regard to cumulative impacts including Sandyford Central that the proposed development will introduce no negative wind effect on the adjoining permitted development.

I am satisfied that no significant overlooking issues arise, having regard to the intervening distance between the western façade of the proposed development and the eastern façade of Sandyford Central Block D.

Having regard to the above, as well as the Daylight, Sunlight and Overshadowing Study, I am satisfied that the development will not have any significant adverse impact on amenities at Sandyford Central such as would warrant a refusal of permission.

10.4.4. Other Impacts at Grafton House / Goatstown Stillorgan Educate Together N.S.

There is currently a metal fence along the southern site boundary to the Goatstown Educate Together N.S. The proposed layout indicates the retention of this boundary, supplemented by tree planting, with the ramp to the basement car park to the immediate north of the boundary, also the landscaped resident amenity area. The proposed blocks are c. 7.9 m (Block 1) and 8.2 m (Block 2) away from the southern boundary. The planning authority states concerns about potential overlooking impacts on the development potential of the site to the immediate south at Grafton House, however these are ameliorated by the proposal to provide only opacified, non-openable windows on the southern gable elevations. As discussed above in relation to microclimate issues, there are some minor funnelling effects at the north western corner of the proposed development, however these impacts are deemed acceptable at this area will be used for walking rather than short or long term sitting, and there were no critical issues in regard to safety. I am therefore satisfied and also having regard to the Daylight, Sunlight and Overshadowing Study, that the

development will not have any significant adverse impact on amenities at Grafton House / Goatstown Stillorgan Educate Together N.S. such as would warrant a refusal of permission. While I note the current proposal for a nine storey aparthotel at the adjoining site to the south, this is currently under appeal ref. ABP-310690-21, the outcome of which cannot be anticipated at this stage.

10.4.5. Construction Impacts on Amenities

I note the comment of the DLRCC elected members that construction works should not occur outside normal working hours. The application includes an outline Construction Environmental Management Plan, which includes details of construction traffic management and proposals for monitoring at neighbouring properties during construction and an Outline Construction and Demolition Waste Management Plan. These documents address potential adverse impacts on amenities during construction and I am satisfied that, subject to the implementation of a detailed Construction Management Plan and a Construction and Demolition Waste Management Plan, which may be required by condition if permission is granted, the construction phase of the development would not have any significant adverse impacts on amenities.

10.5. **Building Height**

10.5.1. The DLRCC elected members note that the development contravenes the SUFP in terms of height. Development plan Policy UD 6 is to adhere to the recommendations and guidance set out within the Building Height Strategy for the County. SUFP Map 3 indicates a height of 6 storeys at the development site subject to the specific provision for a 'building of notable design' and SUFP Objective BH1 and Objective BH4, which require adherence to the height limits indicated in Map 3, apply. SUFP section 3.2.1 states that building height be informed by the following parameters:

- Location;
- The function of the building in informing the streetscape;
- Impact on open space and public realm, in particular shadow impact;
- Impact on adjoining properties and
- Views into the area

DLRCC accepts that the proposed 14-15 storey height creates a transition between the higher Sandyford Central development and the Rockbrook development to the west of the development site and adjoining areas, but states concerns in relation to the relationship of the development to the Grafton House/Goatstown Stillorgan Educate Together N.S. site to the south at Ballymoss Road, and on impacts on the future development potential of that site. It also considers that the adjoining Sandyford Central development does not set a precedent for additional height at this site as (1) only one of six blocks within Sandyford Central exceeds the SUFP limitation of 14 storeys by three storeys, therefore the proposed development represents a much larger departure from SUFP policy and (2) the Sandyford Central development had a much bigger site and was therefore capable of setting its own context, as provided for under the SUFP. The planning authority also questions the ability of the development to meet the requirement for a 'building of notable design' at this location and states concerns about the quality of the public realm at the development. DLRCC concludes on this basis that the development does not comply with the criteria of section 3.2 of the Building Height Guidelines, particularly at neighbourhood/street scale, to deem the proposed heights as permissible in accordance with SPPR 3. DLRCC recommends refusal on this basis, stating that the development fails to satisfy the requirements established by Section 3.2 and SPPR 3 of the Building Height Guidelines at city; neighbourhood (with particular regard to Objective BH4 of the Sandyford Urban Framework Plan to deliver a building of notable design to mark its prominent location); and site scale. The planning authority also recommends a condition requiring that both blocks have a maximum height of 6 storeys, in the event that permission is granted.

10.5.2. Having regard to the above, I consider that the development materially contravenes the SUFP and development plan policy UD6 in terms of building height and I note that the applicant's Material Contravention Statement addresses this matter. With regard to national policy, NPO 35 of the NPF seeks to increase residential densities in settlements and NPO 13 states that building heights in urban areas will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably

protected. The principle of increased height, such as that set out here, is therefore supported by the NPF, subject to compliance with the relevant performance criteria.

10.5.3. Section 1.21 of the Building Height Guidelines sets out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas and section 2.3 of the Guidelines states that, while achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Section 2.4 of the Guidelines highlights that increased building height helps to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks. The Building Height Guidelines also note that planning authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexible or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the NPF, also that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes. Section 3 of the Building Height Guidelines sets out principles and criteria for planning authorities and the Board to apply when considering individual applications. SPPR 3 of the Guidelines states:

It is a specific planning policy requirement that where;

- 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise ...*

The development may be considered with regard to the principles and criteria set out in section 3 as follows, with regard to the rationale submitted by the applicant and to the analysis provided in the CE Report. I am satisfied that there is adequate documentation on file, including drawings, layouts, design details, cross sections,

Landscape and Visual Impact Assessment (LVIA), Materials Strategy, photomontages and CGIs and the Daylight, Sunlight and Overshadowing Study, to enable due consideration on the following matters and I have had regard to same. The assessment is also based on my site inspection dated 3rd December 2021.

10.5.4. I have considered the development with regard to the development management principles set out in section 3.1 of the Building Height Guidelines as follows:

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

The development site is a disused brownfield site, within the SUFP area, adjoining a public transport node and within a significant employment area. The development of an underutilised infill site is therefore considered to support the above principle. The Board is referred to the above assessment of the overall quantum of development for a detailed consideration of the development in the context of national planning policy.

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

The development exceeds the building height parameters set out for this location in the Building Height Strategy and the Sandyford Urban Framework Plan, both appendices of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The Building Height Strategy identifies key locations where taller buildings are to be accommodated and provides for the designation of specific sites to accommodate taller buildings under LAPs, Framework Plans and SDZs, generally in accordance with SPPR 1 of the Building Height Guidelines. The development plan predates the Building Height Guidelines.

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

I am satisfied that the development plan, SUFP and Building Height Strategy are generally consistent with and support the policies and objectives of the NPF. However, I note the provisions of NPF NPO 13, which provides that planning standards for building height in urban areas will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth and states:

These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

I also note NPO 35, which seeks to increase residential density in settlements through a range of measures including infill development schemes, site-based regeneration, and increased building heights.

10.5.5. Having regard to the applicant's rationale for the proposed building height, to the planning's authority's assessment of the matter as set out in the CE Report and to my detailed analysis of the documentation on file and site inspection, I have considered the development with regard to the development management criteria set out in section 3.2 of the Building Height Guidelines as follows:

At the scale of the relevant city/town

- The site is a substantial brownfield site at zoned and serviced lands in an emerging mixed use area.
- The site has a highly accessible location adjacent to the Stillorgan Luas stop and park and ride facility, where the Luas provides a high frequency and high capacity service. The site is also adjacent to several high frequency and high capacity Dublin Bus services including the no. 11 and no. 47, as well as associated pedestrian and cycle infrastructure. The application includes a Mobility Management Strategy.
- The site is not immediately adjacent to any designated Architectural Conservation Areas or protected structures. I am satisfied with regard to the submitted Architectural Design Statement and LVIA that the development will not have any significant adverse visual impacts in the wider area and that no key landmarks or views will be unduly impacted. I note the comments of DLRCC in this regard, which consider that the development will provide a satisfactory east-west height transition between the 17 storey Sandyford Central development and the wider area, addressing Blackthorn Drive/Blackthorn Avenue in a way that would not be visually incongruous and would not provide an overbearing or dominant presence.
- I consider that the development will have a strong presence at the junction of Blackthorn Avenue and Ballymoss Road, at a location designated under the SUFP for a 'building of notable design' with active street frontages and a public plaza. As per the above discussion, I consider that the development achieves the SUFP objective requiring a 'building of notable design' at this location.
- The development provides active street frontages and incorporates a new public open space and pedestrian/cycle infrastructure, in accordance with SUFP policies and objectives for this

location. It also contributes to the achievement of SUFP objectives regarding the creation of a green route at Ballymoss Road. While I note the stated concerns of DLRCC regarding the public plaza, as summarised in the CE Report, I am satisfied with regard to the submitted design rationale, landscaping details and materials strategy, that the ground floor frontages and public plaza include hard and soft landscaping and will have a coherent visual identity. I am satisfied that the development will make a positive contribution to place-making and that it responds well to the adjoining existing streetscape, including the Luas stop, and permitted Sandyford Central development.

At the scale of the district/neighbourhood/street

- I consider that the development responds to the adjacent existing and permitted built environment and makes a positive contribution to streetscape at Blackthorn Avenue and Ballymoss Road, with active ground floor frontages, multiple public access points, a public plaza and associated pedestrian and cycle infrastructure. The proposed ground floor facades, internal and external layouts and hard and soft landscaping have an integrated, coherent design aesthetic.
- I consider that the development will have a distinctive appearance at this gateway location, while reading as part of an emerging cluster of higher developments in Sandyford, and will achieve the SUFP objective of a 'building of notable design' at this site. I am also satisfied that the development will make a positive contribution to the improvement of legibility at this pivotal location adjacent to the Stillorgan Luas stop, due to the provision of a public plaza with a coherent visual identity and integration with pedestrian and cycle infrastructure. I therefore consider that it will make a positive contribution to the character and identity of the area.
- The development provides a variety of uses at ground floor level, including office space, restaurant, gym, resident amenities and a café kiosk, which will enhance the mix of typologies in this area. The overall mix of commercial and residential land uses in the scheme is considered acceptable with regard to SUFP and development plan objectives and to relevant national planning policies. I also consider that the development will make a positive contribution to the mix of housing typologies in the wider DLR area.
- The issue of potential flood risk is assessed below, which concludes with regard to the Flood Risk Management Guidelines that the site is entirely located in Flood Zone C and that no significant flood risk arises at or as a result of the development.

At the sale of the site/building

The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.

The attention of the Board is drawn to the above assessment of potential overshadowing impacts on adjacent existing and permitted residential properties in detail and concludes that the development will not have significant adverse impacts on residential amenities by way of

overshadowing such as would warrant a refusal of permission. I accept that the development will change the outlook from adjacent residential properties, however this will be the case of any high density development of these zoned and serviced lands, in line with national planning policy.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

The applicant's Daylight, Sunlight and Overshadowing Study considers access to daylight and sunlight within the proposed apartments as well as overshadowing of amenity spaces within the development, with regard to BS 8206-2:2008 recommendations, as summarised above. I am satisfied that the submitted Daylight, Sunlight and Overshadowing Study is sufficient to assess a development of the scale proposed. Overall, I consider that the development achieves a reasonable level of compliance with BRE 209 and BS2008, noting relevant national planning policies to achieve compact urban development and higher residential densities, and that the amenity of existing residents and future residents is satisfactorily addressed and maintained.

Specific Assessments

The application includes the following:

- Daylight, Sunlight and Overshadowing Study
- Wind and Microclimate Modelling Report
- Ecological Impact Assessment
- AA Screening Report
- EIA Screening Report
- Architects Design Statement.

The development will not impact on telecommunications channels or on air navigation and related specific assessments are therefore not considered necessary in this instance.

10.5.6. To conclude, having regard to the applicant's rationale, to the DLRCC CE Report, to and to my above assessment and in view of other national planning policies, I consider that proposed development satisfies the criteria set out in section 3.2 of the Building Height Guidelines. I therefore consider that the proposed 14 – 15 storey

height is appropriate within the surrounding context, having regard to the location of the subject site within an existing Mixed Outer Core which is well served by public transport. The permission for 17 storeys on the adjoining Sandyford Central site is also noted in this regard.

10.6. **Part V**

10.6.1. The applicant proposes to lease 19 no. units, 10% of the proposed apartments, to the planning authority on a long-term basis. The proposed units comprise 7 no. two bed units and 12 no. one bed units, which are located on the first, second and third floors of both blocks. A site layout plan indicating the units to be leased is submitted, along with costings. The report on file of DLRCC Housing Dept., dated 22nd November 2021, states that the Council is seeking to phase out long-term leasing of social housing, in line with recent announcements by the Dept. of Housing on Government policy, and requests an alternative Part V proposal on this basis. I note the recent Housing for All Plan and the associated Affordable Housing Act 2021, which requires a contribution of 20% of land that is subject to planning permission, to the planning authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

10.7. **Childcare Provision**

10.7.1. The Childcare Facilities Guidelines for Planning Authorities recommend a minimum provision of 20 childcare places per 75 no. dwellings. Section 4.7 of the Apartment Guidelines states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One bed or studio units should generally not be considered to contribute to a requirement for any childcare provision and, subject to location, this may also apply in part or whole to units with two or more bedrooms.

- 10.7.2. The development includes 92 no. one-bed units, 86 no. two-bed units and 12 no. three bed units. This entails a maximum childcare requirement of c. 26 no. childcare places if all of the two-bed units are taken into account. The proposed development does not include any childcare provision. The applicant's Planning Report notes that there are two creches permitted at the Sandyford Central and Rockbrook developments, which will have a minimum capacity for 130 no. children. It seeks to justify the proposed lack of childcare provision on the basis that there are up to ten existing childcare facilities in the Sandyford Business Estate and adjoining residential areas, which would be within walking distance of the development.
- 10.7.3. The CE Report notes development plan policy SIC 6, which is to support the development, improvement and provision of a wide range of community facilities distributed in an equitable manner throughout the County and policy SIC 11, which requires one childcare facility be provided for every 75 residential units "subject to demographic and geographic needs". The planning authority notes that the application does not provide any capacity assessment of existing childcare facilities in the area and therefore considers that the applicant has not adequately justified the lack of a childcare facility. The recommended refusal reason no. 4 refers to overdevelopment of the site due to a lack of a childcare facility, among other issues and the planning authority also recommends a condition requiring the provision of a childcare facility, if permission is granted.
- 10.7.4. I consider that, given the limited size of the development and with regard to the unit mix, it is unlikely to generate a substantial demand for childcare places. The proposed lack of childcare is considered acceptable on this basis. I also consider that the development does not contravene the requirements of development plan section 7.1.3.6, which refers to the Childcare Guidelines, but also states that the provision of childcare facilities within new residential areas shall have regard to the geographical distribution and capacity of established childcare facilities in the locale and the emerging demographic profile of the area.

10.8. **Traffic and Transportation**

- 10.8.1. The elected members of DLRCC state concerns in relation to the capacity of the Luas to cater for the development, also that additional public transport is needed to serve the wider area.

- 10.8.2. The site is immediately adjacent to the Stillorgan LUAS stop and park and ride facility on the northern side of Blackthorn Avenue, which provides a high frequency and high capacity connection to Dublin City Centre and to Cherrywood. There are several Dublin Bus routes in the immediate vicinity of the site including the no. 11 which connects Wadelai Park to Sandyford and the no. 47 which connects to Poolbeg St and Belarmine. There is also an Aircoach Route no. 700 which runs to Dublin Airport. All of these services run every 15 – 30 minutes and are proposed to be upgraded under Bus Connects. There are well-established existing cycle and pedestrian networks in the vicinity, including facilities at the site frontages to Blackthorn Avenue and Ballymoss Road. The site has an existing vehicular access to Ballymoss Road.
- 10.8.3. I note SUFP Objective PR 7, which is to provide a ‘clear, direct, accessible and inviting pedestrian and cycle route’ from the public transport interchange at Blackthorn Avenue into the centre of Sandyford Business Estate. This objective is to be achieved by the creation of a generous crossing point at the public transport interchange and by clearly defined building edges and a set back of the building line at the junction of Ballymoss Road and Blackthorn Avenue, with a shared surface environment along the entirety of the route. SUFP Objective TAM 7 also seeks to prioritise Ballymoss Road to facilitate a quality cycle/pedestrian link from the Stillorgan Luas station to the heart of Sandyford Business Estate. SUFP Drawing no. 5 indicates a proposed pedestrian and cycle route along Ballymoss Road and Drawing no. 10 indicates a Green Route along Ballymoss Road, to link the public plaza at the junction of Ballymoss Road and Blackthorn Avenue with the zoned civic space at Carmanhall Road. Drawing no. 11 indicates shared surfaces at Ballymoss Road and at the junction of Ballymoss Road and Blackthorn Avenue.
- 10.8.4. The development includes a basement car/cycle park, which connects to Ballymoss Road at the south eastern corner of the site via a ramp. There is also a secondary, emergency vehicles only, access to the hard surfaces on the northern side of the site. The roads layout continues the existing pedestrian and cycle routes along Blackthorn Avenue and the existing pedestrian infrastructure at the Ballymoss Road site frontage. The existing 2 m wide footpath at Ballymoss Road is to be widened, which will contribute to the achievement of SUFP objectives at this location. As discussed above, I am generally satisfied that the development achieves the various

relevant public realm objectives of the SUFP. I note the stated concerns of DLRCC Transportation Planning Section that the vehicular entrance does not relate well to Objective TAM 7, however it also notes that there is an existing vehicular access at this location and the principle of continuing its use for vehicular access/egress is deemed acceptable. A Statement of Compliance with DMURS is submitted and I note that the planning authority states no concerns in this regard. I consider that the proposed detailed roads layout is acceptable subject to conditions and that the development is generally in accordance with the relevant roads and transportation objectives of the SUFP.

10.8.5. DLRCC Transportation Planning Section recommends refusal on the basis that the quantity and quality of car parking provision, cycle parking provision, layout of basement and access to the cycle parking are all considered to be deficient, and will, in the event of a grant, result in the provision of substandard level of residential amenity for residents, and the creation of conflicts between users in the basement, resulting in the creation of traffic hazards within the development. The DLRCC elected members also state concerns in relation to the lack of accessible parking and the need for car sharing the context of reduced car parking. Refusal reason no. 5 recommended by DLRCC states that the proposed car parking provision is contrary to the standards established by development plan Table 8.2.3 and could result in significant parking spillover that could detrimentally impact on the road network, also that the lack of car parking would militate against the establishment of a varied residential population, including those who may need a vehicle as part of their transportation requirements.

10.8.6. The development provides 59 no. basement car parking spaces, including 4 no. accessible parking bays, comprising 54 no. resident spaces and 5 no. office spaces, There is no provision for car-sharing. The planning authority notes that the proposed car parking provision would result in a maximum ratio of 1:0.28 car parking spaces per unit. This provision may be considered as follows, with regard to development plan car parking standards:

Unit Type	No. of Units	Development Plan Requirement
1 bed apt	92	92
2 bed apt	86	129
3 bed apt	12	24
Total	190	245

The comments of the DLRCC elected members state that a ratio of one car parking space per unit should be provided, also that the lack of accessible parking is unacceptable. This ratio is also recommended by DLRCC Transportation Planning Section, which recommends a condition to this effect, such that a total of 190 no. spaces would be provided to serve the development. The applicant seeks to justify the proposed reduced parking provision on the basis of national planning policy and noting the highly accessible location of the site. The submitted Mobility Management Plan also states that CSO data demonstrates that only 35% of people in the area travel to work by car. I note section 4.19 of the Apartment Guidelines, which addresses car parking for larger scale and higher density developments at central and/or accessible urban locations. The default policy at such locations is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances, particularly at highly accessible locations such as adjacent to public transport nodes. In addition, SPPR 8 (iii) of the Apartment Guidelines states that here shall be a default of minimal or significantly reduced car parking provision for BTR development on the basis that it is more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. I therefore consider that the proposed quantum of car parking is acceptable, given the highly accessible location of the site, and subject to conditions, as discussed further below.

10.8.7. The development provides a total of 474 no. cycle parking spaces, comprising the following (as per the submitted TTA and other documentation on file):

Type of Cycle Parking	Basement	Surface
Visitor spaces	24 no. cargo and e-bike charging spaces	Office spaces 14 Restaurant / café 22 Gym 6
Staff Spaces	12 spaces	
Apartment Spaces	396 spaces	
Total	432 basement parking spaces	42 surface parking spaces

The basement cycle parking includes 12 no. two-tiered type long term staff parking spaces with shower, drying and locker room facilities to serve the office, restaurant, café and gym uses. There are four separate secure bicycle parking areas for residential use, which provides 396 bicycle spaces using two-tiered bicycle racks. The remaining 24 no. spaces are provided using Sheffield stands with cargo and e-charging facilities. The basement cycle parking is to be accessed via a lift adjacent to the café kiosk in the public plaza, or via the access ramp. The surface spaces are provided in the form of Sheffield Stands at five different locations in the public realm at the site. The quantitative provision is in accordance with the requirements of the development plan and the Apartment Guidelines. The development would require a total of 395 no. cycle parking spaces for the apartment units to comply with the recommendations of section 4.17 of the Apartment Guidelines. However, DLRCC Transportation Planning Section states several concerns about the proposed cycle parking provision, in particular the two-tier racks, which are considered to be unsuitable for the likely varied range of users and are not in accordance with the requirements of DLRCC's "Standards for Cycle Parking and associated Cycling Facilities for New Developments" (2018). This matter was also raised in the comments of elected members. The Transportation Planning section also has concerns about the limited size of the cycle lift access and the excessive gradient of the access ramp at 10%, which is too steep for cycle access. The Transportation Planning Section also notes that the development does not provide a minimum of 50% covered bicycle parking at surface level, as required by the 2018 DLRCC cycle parking standards. It considers that these limitations could hinder and discourage future residents from adopting cycling as a mode of transport to and from the

development. DLRCC Transportation Planning Section also states concerns about the proposed basement car parking layout, noting deficiencies in the auto-track analysis and noting that there is no provision for refuse vehicles to access the basement. It recommends refusal due to these issues, commenting:

Transportation Planning consider that the proposed layout is deficient and would likely result in the creation of an excessive number of conflicts between users in the basement, resulting in the creation of traffic hazards within the proposed development and poor residential amenity for future residents. Therefore, Transportation Planning recommend refusal of the proposed development.

10.8.8. The applicant's rationale for the proposed basement layout highlights that the development will generate a low volume of vehicular movements, due to the low level of car parking provision, such that there will be limited opportunities for conflicts to arise at the basement ramp or at the access to Ballymoss Road. The applicant also seeks to justify the constrained basement layout on this basis. The TTA predicts that the development will generate 43 vehicles in two directions in the AM network peak hour and 33 vehicles in two directions in the PM network peak hour. It is envisaged that the car park will have a low dynamic turnover of vehicles, with two or less daily movements per space. This point is considered reasonable. It is also proposed to wheel municipal waste to the surface, such that refuse trucks will not access the basement. I consider that this arrangement is acceptable in a BTR context, where there are on-site maintenance and management facilities. While I note the serious concerns stated by DLRCC Transportation Planning Section, I consider that they may be addressed by a revised basement and cycle parking layout and larger cycle lift access, which could be required by condition. Some reduction in the quantum of cycle parking may be necessary in order to achieve a layout and cycle parking provision to the satisfaction of DLRCC Transportation Planning Section, however this would be acceptable given that the proposed quantum of residential cycle parking meets the requirements of the Apartment Guidelines, and that there is scope for complementary usage of other cycle spaces at the development. I therefore recommend that a condition be imposed requiring the applicant to address the following issues regarding the basement access and layout and cycle parking provision, to the satisfaction of the planning authority:

- Revised basement access ramp gradient such that the ramp is suitable for cyclists.
- Enlarged bicycle lift to cater for two bicycles at once.
- Revised swept path analysis to the satisfaction of the planning authority.
- Revised cycle parking provision to the satisfaction of the planning authority.
- Covered cycle parking at surface level to the satisfaction of the planning authority.
- Revised car park layout to indicate satisfactory provision for accessible parking.

10.8.9. The submitted Traffic and Transport Assessment, dated September 2021, is based on traffic surveys carried out on Tuesday 10th September 2019 at four junctions along Carmanhall Road. The TTA concludes that the development will have a negligible cumulative traffic impact on the surrounding road network, which is already operating near capacity with existing traffic volumes. This conclusion is accepted with regard to the highly accessible location of the site and considering that the development will generate little additional vehicular traffic given the minimal car parking provision. I note the concerns of DLRCC Transportation Planning Section, which comments that the submitted Mobility Management Plan “does not include target modal shares, nor clear measures and details of implementation of same to achieve target modal shares”. A final operational Mobility Management Plan may be submitted for agreement as a condition of permission. This should provide for a car sharing scheme and car parking management measures, both of which could easily be implemented in a BTR scheme, and which also may be required by condition.

10.8.10. I note the comment by elected members that construction traffic should be restricted on Blackthorn Avenue. Section 7.3 of the TTA addresses construction traffic, stating that the construction site access point is envisaged on Ballymoss Road, with a comprehensive Construction Traffic Management Plan to be agreed with the planning authority prior to the commencement of construction. I note that DLRCC Transportation Planning Division require further details of construction traffic management, however, I am satisfied that, subject to the implementation of a final Construction Traffic Management Plan, which may be required by condition, the

construction traffic associated with the development will not have any significant adverse impacts on adjacent residential areas or adverse traffic impacts.

10.9. Drainage, Flooding and Site Services

- 10.9.1. The development will connect to the existing surface water infrastructure in the area. The submitted Infrastructure Report and Surface Water Audit provide details of the proposed surface water drainage design including SuDS measures such as permeable paving, landscaping and green and blue roof areas. Ground testing carried out at the site found that it is underlain by impermeable boulder clay so soakaways will not be feasible, as per the submitted Ground Investigation Report. The proposed surface water drainage system will attenuate discharge from the completed development to a peak flow rate of 2l/s, representing a significant improvement on the current drainage regime at the site. The report of DLRCC Drainage Planning, dated 1st November 2021, states that further details of the proposed green roof areas are necessary to ensure compliance with Development Plan policy requiring a minimum coverage of 60% green roof area. Drainage planning also requires further details of surface water attenuation in the areas to be taken in charge. Related conditions are recommended.
- 10.9.2. The SSFRA states that the site is entirely within Flood Zone C. CFRAMS mapping indicates an area within Flood Zone B to the west of the site, at the Sandyford Central development. This is associated with the Carysfort/Maretimo river, which runs c. 1.5 km to the southeast of the development. Hydraulic modelling of the surrounding public surface water system carried out for the Sandyford Central development under ABP-305940-19 identifies a surcharging public storm water manhole to the northeast of the development site within the 0.1% AEP. The resulting flood extents encroach marginally into the site boundary at the corner of Ballymoss Road and Blackthorn Avenue, however in reality this would not occur due to the presence of a wall adjacent to the footpath. Irrespective of this, the predicted flood extents remain outside the applicant's ownership boundary and removed from the area being developed. The affected areas are removed from habitable spaces and are fully landscaped. The SSFRA concludes on this basis that there will be no change in levels in the area affected by the 1,000-year flood. In addition, the development will significantly reduce the pressure on the receiving local network by reducing the volume and controlling the rate of run-off from the site thereby reducing

flood risk to neighbouring properties. I note that the planning authority states no concerns in relation to flood risk at the site. I am satisfied from the SSFRA that the development is not at risk of flooding and will not result in any increased risk of downstream flood impacts.

10.9.3. The development will connect to the existing foul sewerage network and public watermain. The Infrastructure Report provides details of projected water demand and foul outflows from the development and new watermains and foul network design. The submission on file from Irish Water, dated 16th November 2021, states that IW has issued a Statement of Design Acceptance and recommends conditions. No significant infrastructural or capacity issues are identified. The proposed foul drainage arrangements are considered satisfactory on this basis.

10.10. Trees and Ecology

10.10.1. The submitted Ecological Impact Assessment (EclA) is based on site surveys carried out on February 19th 2020. Potential issues pertaining to European designated sites are discussed below in relation to AA. The development site is not within or immediately adjacent to any nationally designated site, such as a Natural Heritage Area (NHA) or a proposed Natural Heritage Area (pNHA). It is within 10 km of twelve designated pNHA sites, as detailed in Table 4 and Figure 5 of the EclA. The nearest nationally designated site is Fitzsimons Wood pNHA, 1.6 km southwest of the development. No impacts on this pNHA or any other nationally designated site are envisaged. The EclA provides details of existing habitats at the development site, which are dominated by buildings and artificial surfaces and amenity grassland (slightly rank), and a small area of flower beds and borders, with no flora or fauna of conservation importance noted in these areas. There are no botanical features on the site of any scientific interest and there are no habitats of biodiversity value. There are no drains or streams within or adjacent to the development site, which would provide aquatic habitats. The dense shrub areas and immature trees at the site may provide some useful nesting sites for local populations of passerine birds. However, due to the high level of noise in the area from the traffic on Blackthorn Drive, the use of these trees by birds is likely to be low. The quality and biodiversity of the grassland habitats within the site are low, although the flowering plants would provide a suitable source of nectar for pollinating insects in the spring and summer months. No protected plant species were found within the site and no non-native

invasive species that are listed in Schedule Three of the Birds and Habitats Regulations (2011) were recorded at the site. No signs of mammals were noted and it is very unlikely that large mammals, such as badgers, use the site. Smaller mammals like hedgehogs, mice, rats and pygmy shrews might occur but were not observed.

10.10.2. The EclA identifies potential impacts on habitats and species comprising:

- Habitat loss and fragmentation during the construction and operation of the development. The existing habitats at the site are of low biodiversity value overall. There may be small impacts upon local populations of birds and small mammals as some nesting sites will be lost. Sources of nectar for local populations of pollinators will also be reduced. However, these impacts will be imperceptible.
- Impacts on pollinators due to loss and fragmentation of grassland habitats.
- Disturbance to birds and mammals due to increased noise, traffic and human activity. However, there is already a large background level of noise on the site and the impacts upon wildlife locally are likely to be negligible, given the low level of wildlife that use the site.
- Inappropriate landscaping of the site could inadvertently result in the introduction of non-native and invasive plant species. However, appropriate landscaping could also provide beneficial habitats for wildlife, providing nesting and foraging opportunities for birds. The management of the verges for wildlife would also be beneficial for local pollinators.

No significant cumulative impacts are identified. The EclA notes adjacent permitted developments, however the creation of new areas of biodiversity within the development site and the retention and protection of treelines will provide local ecological corridors and networks that will reduce the overall cumulative impact of this development in the Dublin City area. The EclA outlines proposed construction management measures, surface water management and landscaping. No significant residual impacts are identified. These conclusions are accepted, subject to the implementation of the proposed mitigation measures, which may be required by condition, given the limited biodiversity value of habitats present at the site.

10.10.3. No bat survey of the site was carried out. This is considered to be a deficiency in the ecological assessment of the development given that the site includes a disused building, which may have potential bat roosts. The EclA states that the buildings on site have a flat roof which is very well sealed with minimal gaps that would accommodate bats. There were no obvious bat staining or droppings at the site survey. There are also no mature trees on site which would provide suitable roosting or hibernating habitats for bats. However, in the summer months it is likely that bats may forage over the site in small numbers. Potential impacts on bats generally relate to loss and fragmentation of foraging habitat and disturbance associated with lighting. Conditions requiring a bat survey prior to demolition, provision of bat boxes and provision of suitable lighting may be imposed.

10.10.4. SUFP Objective PR 5 is to endeavour to conserve all street and roadside trees where feasible and to replace any trees removed with an appropriate species. I am not aware of any site-specific objective to retain trees at this location, or of any Tree Protection Order relating to the development site. The submitted Arboricultural Assessment and Arboricultural Impact Report identify 14 no. trees at the site, of which 13 specimens are rated 'category B', being trees of moderate quality and value (long term potential 20 years minimum). There are eight rowan trees at the Ballymoss Road site frontage, which are within the public realm. These are generally in good condition. The development involves the removal of all 14 no. trees within the site boundary. The removal of trees at the site was raised by the elected members and the planning authority states significant concerns in relation to this issue. DLRCC Parks and Landscape Services recommends refusals on grounds relating to the removal of all trees on site, among other issues. However, the applicant submits that it is necessary to remove existing trees in order to facilitate the proposed comprehensive redevelopment of the site. This point is accepted and I also note that the development includes comprehensive landscaping proposals, which will compensate for the loss of existing trees. The proposed vehicular access will necessitate the loss of two of the existing rowan trees at the Ballymoss Road site frontage. This is unfortunate but, again, cannot be avoided if a satisfactory vehicular access is to be achieved.

10.11. Material Contravention

10.11.1. The applicant's Material Contravention Statement addresses the matters of (i) consistency with the MOC zoning objective; (ii) car parking; (iii) quantitative apartment standards; (iv) building height and (v) quantum of residential development. The CE Report, and the refusal reasons recommended therein, state the following:

- The development materially contravenes the MOC zoning objective
- The development materially contravenes the SUFP and development plan in relation to building height.
- The proposed car parking provision is deemed contrary to the standards established by table 8.2.3 of the development plan.
- Refers to consistency with development plan quantitative standards for apartment development including in relation to housing mix, dual aspect units and separation distances between blocks.

10.11.2. Material Contravention Analysis

Having regard to the above assessment, to my site inspection, to the comments of the elected members, the CE report, prescribed bodies, and the planning authority and to the documentation on file, I have reached the following conclusions in relation to potential material contraventions of the development plan.

MOC Zoning Objective:

Having regard to the provisions of section 9(6)(c) of the Housing and Residential Tenancies Act 2016, the Board may only invoke the provisions of section 37(2)(b) where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land. The planning authority, as stated in recommended refusal reason no. 1, considers that the development would contravene the MOC zoning objective due to the proposed quantum of residential development. As per the above assessment, I consider that the wording of the MOC zoning objective allows for some flexibility in the overall quantum of residential development and I am therefore satisfied that it does not represent a material contravention of the zoning objective such that section 9(6)(b) of the 2016 Act would apply.

Residential Quantum:

SUFP Objective MC 4 is to limit the number of additional residential units within MIC Zone 1 and MOC Zone 2 to c. 1,300 residential units. I note that the wording of Objective MC 4 leaves open the possibility of a residential quantum greater than 1,300 units on MOC and MIC zoned lands. I therefore consider that the development does not materially contravene the development plan in this respect. However, the issue has been raised in the applicant's Material Contravention Statement and the Board therefore can invoke the provisions of section 37(2)(b) in relation to the matter.

Building Height:

I consider that the proposed building height does materially contravene the Building Height Strategy set out in Appendix 9 of the development plan and related Policy UD6 and policies and objectives of the SUFP. This matter is addressed in the applicant's Material Contravention Statement and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

Car Parking:

The proposed car parking provision is not in accordance with the standards indicated in development plan table 8.2.3 and the development is therefore considered to materially contravene the development plan in this respect. This matter is addressed in the applicant's Material Contravention Statement and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

Apartment Standards:

Development plan section 8.2.3.3 (iii) states that apartment developments over 30 units should "generally comprise" of no more than 20% one bed units and a minimum of 20% of units over 80 sq.m. The proposed development is considered to materially contravene this requirement given that it comprises 49% one bed units, 45% two bed units and 6% three bed units. The applicant's Material Contravention Statement addresses housing mix in the context of its consideration of the quantitative residential standards set out in development plan section 8.2.3.3 and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

Development plan section 8.2.3.3 (iv) requires 'acceptable separation distances' between blocks and specifies a minimum distance of c. 22 m, but also stating that reduced separation distances may be acceptable in certain instances, depending on orientation and location in built-up areas. I consider that the above policy statement allows for some flexibility in the interpretation of the 22 m standard, and I consider that the proposed development does not materially contravene the development plan in this regard. This matter is addressed in the applicant's Material Contravention Statement and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

The applicant's Material Contravention Statement addresses other aspects of the proposed development in terms of consistency with the Apartment Guidelines. I note that, while development plan section 8.2.3 provides development management standards for apartment developments, the plan also includes an Advisory Note, which states that the standards and specifications in respect of apartment development as set out in section 8.2.3.3. (i), (ii), (v), (vii) and (viii) (relating to design standards, dual aspect, internal storage, minimum apartment floor areas and public, communal and private open space standards) have been superseded by the Apartment Guidelines, including the mandatory SPPRs within same. The SPPRs of the Apartment Guidelines take precedence over the development plan standards and specifications as set out in Section 8.2.3.3. I am therefore satisfied that the development does not materially contravene the development plan in relation to these matters, given that it is considered to be consistent with the Apartment Guidelines, as discussed above.

10.11.3. Section 37(2)(b) Analysis

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

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

The proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government's policy to increase the delivery of housing from its current under-supply as set out in

Rebuilding Ireland Action Plan for Housing and Homelessness. The proposed development is therefore considered to be strategic in nature.

In relation to section 37(2)(b)(iii):

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2 of the Guidelines, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to car parking and housing mix, regard is had to the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031, Project Ireland 2040 National Planning Framework and in particular National Policy Objective 35, and the provisions of Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in December 2020.

The provisions of section 9(3) of the SHD Act are also noted in this regard, i.e., that where SPPRs of section 28 guidelines differ from the provisions of a development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

10.12. Chief Executive Report

- 10.12.1. My conclusions on the matters raised in the six refusal reasons recommended in the DLRCC Chief Executive Report are summarised here in the interests of clarity.

1. *The proposed development materially contravenes zoning Objective 'MOC' with the objective 'To provide for a mix of uses which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services'. The policy context for the area, requires that primary uses be employment and services and where other uses, such as residential, will be of an appropriate proportion such that they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective. The proposed development, which is overwhelmingly residential in terms of use fails to satisfy this policy requirement. In that context, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Sandyford Urban Framework Plan vision for this wider area as a place of employment and services.*

Having regard to the detailed wording of the MOC objective, which does not prescribe a specific ratio of land uses within the MOC zone, the proposed development is not considered to materially contravene the objective such that section 9(6)(b) of the 2016 Act would apply. The proposed residential development is considered to be acceptable in principle at this zoned and serviced site adjacent to a public transport node, with regard to regional and national planning policy. In addition, the CBRE report submitted in support of the application indicates that the development will not have a detrimental impact on employment development at Sandyford.

2. *The proposed development would breach the maximum number of residential units permissible under MC4 for MIC (Mixed Inner Core) and MOC (Mixed Outer Core) which is in place to ensure that an adequate mix of uses is maintained in the Mixed Use Outer Core and also in accordance with the capacity of existing infrastructure. The proposed development is therefore contrary to the Sandyford Urban Framework Plan and the Dun Laoghaire Rathdown County Development Plan 2016-2022.*

I note that the wording of Objective MC 4 leaves open the possibility of a residential quantum greater than 1,300 units on MOC and MIC zoned lands. I therefore consider that the development does not materially contravene the development plan in this respect. The proposed residential development is considered to be acceptable in principle at this zoned and serviced site adjacent to a public transport node, with regard to regional and national planning policy.

3. The proposed development materially contravenes the height limitations established for the subject site by the Sandyford Urban Framework Plan, which forms part of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and also fails to satisfy the requirements established by Section 3.2 and SPPR3 of the Urban Development and Building Height Guidelines at city; neighbourhood Page 30 of 66 (with particular regard to Objective BH4 of the Sandyford Urban Framework Plan to deliver a building of notable design to mark its prominent location); and site scale. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

Having regard to the above analysis, the development is considered to be in accordance with the criteria set out in section 3.2 of the Building Height Guidelines ALSO NPF 13 AND 35 It is also considered to meet the SUFP requirement for a 'building of notable design' at this location. The applicant's Material Contravention Statement addresses the matter of building height.

4. On the basis of the inadequate unit mix, and in particular the insufficient provision of 3-bedroom units; the overlooking caused by inadequate separation distances between Block 1 and Block 2; the number of units that fail to achieve satisfactory Average Daily Factors in accordance with the recommendations of the 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting; the insufficient number of dual aspect units in a largely unconstrained urban context; and the non-provision of a childcare facility on site despite the proposal comprising 98 2 bedroom and 3-bedroom units, the proposed development is deemed to represent overdevelopment of the subject site resulting in a substandard level of

residential amenity being provided contrary to Development Plan 2016-2022 policy and therefore, contrary to the proper planning and sustainable development of the area. The subject proposal is also deemed to set an undesired precedent that could be detrimental to the policy objectives for the SUFP area.

- The proposed housing mix is in accordance with the recommendations of the Apartment Guidelines, noting that SPPR 8 of same provides that there shall be no restrictions on housing mix for BTR developments.
- While the proposed separation distances are less than the 22 m minimum recommended in development plan section 16.3.3, they are considered reasonable given that the development is generally in accordance with the quantitative standards of the Apartment Guidelines and given that the development will make a significant contribution to the achievement of wider national and regional planning objectives and will achieve a satisfactory standard of residential accommodation overall.
- The proposed daylight and sunlight levels in apartments are considered reasonable with regard to the applicant's Daylight, Sunlight and Overshadowing Study and having appropriate and reasonable regard to the quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. The standards achieved, when considering all site factors and the requirement to secure comprehensive urban regeneration of this highly accessible and serviced site within the Dublin Metropolitan Area with a positive and active urban edge, in accordance with national and local policy guidance, are in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants.
- The development achieves c. 37% dual aspect units, which is well in excess of the 33% minimum for developments at 'central and/or accessible' locations as per SPPR 4 of the Apartment Guidelines.
- The lack of a childcare facility is considered to be justified in the context of existing and permitted childcare facilities in the area, having regard to development plan policy SIC 6, which is to support the development,

improvement and provision of a wide range of community facilities distributed in an equitable manner throughout the County and policy SIC 11, which requires one childcare facility be provided for every 75 residential units “subject to demographic and geographic needs”.

5. *The car parking provision proposed is deemed contrary to the standards established by Table 8.2.3 of the County Development Plan 2016-2022 and could result in significant parking spillover that could detrimentally impact on the road network. Furthermore, the lack of car parking would militate against the establishment of a varied residential population, including those who may need vehicle as part of their transportation requirements.*

The proposed car parking provision is considered to be in accordance with the performance based approach to car parking set out in section 4.19 and SSPR 8 of the Apartment Guidelines, which recommends a default minimum car parking provision for BTR developments larger scale and higher density developments at central and/or accessible urban locations. A final Mobility Management Plan may be required by condition, which includes provisions for car sharing and car parking management, which will achieve optimum car parking usage. The applicant’s Material Contravention Statement addresses the matter of car parking.

6. *The layout of the basement level is deficient and would likely result in the creation of an excessive number of conflicts between users in the basement, resulting in the creation of traffic hazards within the proposed development and poor residential amenity for future residents.*

A condition is recommended requiring a revised basement layout which is to address several specific issues to the satisfaction of the planning authority. It is not considered that this matter in isolation would warrant a refusal of permission.

11.0 EIA Screening

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

- Construction of more than 500 dwelling units,

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

11.2. The proposed development involves 190 no. residential units on a site with a stated area of c. 0.377 ha and is therefore well below all of the above thresholds. Therefore, in order to determine whether the proposed development requires EIA, the criteria set out in schedule 7 of the regulations, and those at Annex III of the EIA directive 2011/92/EU as amended by 2014/52/EU, should be applied with regard to the characteristics and location of the proposed development, and with regard to the type and characteristics of its potential impact.

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

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

- Planning Report and Statement of Consistency
- Statement of Material Contravention
- EIA Screening Report
- Architect’s Design Statement

- Building Lifecycle Report
- Housing Quality Assessment
- Architectural Drawings
- Infrastructure Report
- Surface Water Audit
- DMURS Compliance Report
- Mobility Management Plan
- Traffic and Transport Assessment Report
- Engineering Drawings
- Landscape Design Report
- Microclimate Report
- Energy & Sustainability Report
- Public Lighting Report
- Arboricultural Assessment and Arboricultural Report
- Photomontages
- Landscape and Visual Impact Assessment
- Ground Investigation Report
- Daylight, Sunlight and Overshadowing Study
- Construction and Demolition Waste Management Plan
- Construction Environmental Management Plan
- Operational Waste Management Plan
- AA Screening Report
- Ecological Impact Assessment

11.5. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development

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

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

- An AA Screening Statement has been submitted with the application, in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC)
- A Construction & Demolition Waste Management Plan,
- A Site Specific Flood Risk Assessment, has been submitted, which ensures effective management of flood risk, and which has had regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (DoEHLG & OPW, 2009), and was undertaken in response to the EU Floods Directive.

I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening. I also note the SEA has been undertaken of the Dun Laoghaire Rathdown County Development Plan 2016-2022

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

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Class 10 (b) and Class 13 of Schedule 2, Part 5 of the Planning and Development Regulations, 2001 (as amended);
- (b) the location of the site on land zoned under Objective MOC with the objective "To provide for a mix of uses, which complements the inner core, but with less retail and residential and more emphasis on employment and services";

- (c) the pattern of development on the lands in the surrounding area;
- (d) the availability of mains water and wastewater services to serve the development;
- (e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended);
- (f) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003);
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),

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

12.0 Appropriate Assessment

12.1. AA Introduction

12.1.1. This assessment is based on the submitted AA Screening Report dated July 2021, the site visit, the submissions of the planning authority and prescribed bodies and the documentation on file. I have had regard to the contents of same. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

12.2. The Project and Its Characteristics

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

12.3. The Development Site and Receiving Environment

12.3.1. See site description in section 2.0 above and summary of EclA in section 10.10 above. There are no designated sites within or immediately adjacent to the development. No Annex I habitats for which European Sites within 15 km have been designated were recorded within the development site or in the immediate vicinity.

12.4. Stage I Appropriate Assessment

12.4.1. In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie).

12.4.2. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). There are no designated sites within or immediately adjacent to the development. The applicant's Stage I screening assessment identifies the following designated sites within 15 km of the development:

European Site (code)	Distance to Development	Qualifying Interests/ Conservation Objectives
SAC		
Glenasmole Valley SAC (001209)	10.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p>
Wicklow Mountains SAC (002122)	6.7 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p>

		<p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
South Dublin Bay SAC (000210)	3.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
Knocksink Wood SAC (000725)	7.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p>
Ballyman Glen SAC (000713)	8.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>

		Alkaline fens [7230]
North Dublin Bay SAC (000206)	8.4 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Rockabill to Dalkey Island SAC (0003000)	8 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>
Bray Head SAC (000714)	12.2 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Howth Head SAC (000202)	12.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of</p>

		<p>condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Baldoyle Bay SAC (000199)	14 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
SPA		
Wicklow Mountains SPA (004040)	6.8 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>
South Dublin Bay and River Tolka Estuary SPA (004024)		<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p>

		<p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>North Bull Island SPA (004006)</p>	8.4 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Dalkey Islands SPA (004172)</p>	7.7 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>

		Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]
Howth Head Coast SPA (004113)	14 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Kittiwake (<i>Rissa tridactyla</i>) [A188]
Baldoyle Bay SPA (004016)	14 km	The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]

12.4.41. I do not consider that any other European Sites fall within the zone of influence of the project, having regard to the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

12.4.42. I consider that there is no possibility of significant effects on the following designated sites within 15 km, with regard to their conservation objectives, due to intervening distances, to the nature of the intervening land uses and to the absence of a hydrological or any other linkage between the development and the European Site. I have therefore excluded them from the remainder of this AA screening:

- Glenasmole Valley SAC (001209)
- Wicklow Mountains SAC (002122)
- Knocksink Wood SAC (000725)
- Ballyman Glen SAC (000713)
- Bray Head SAC (000714)

- Howth Head SAC (000202)
- Baldoyle Bay SAC (000199)
- Wicklow Mountains SPA (004040)
- Howth Head SPA (004113)
- Baldoyle Bay SPA (004016)
- Rockabill to Dalkey SAC (0300)
- Dalkey Islands SPA 004172)

Having regard to the significant separation distances from Natura 2000 sites, I consider that that any potential for significant effects is limited to the question of surface water and wastewater emissions and their potential downstream impacts on the receiving environment in Dublin Bay. My screening assessment will therefore focus on the impact of the proposal on the conservation objectives of the Natura 2000 sites around Dublin Bay and their qualifying interests (as set out below). I am satisfied that no other European Sites fall within the possible zone of influence. I have therefore excluded them from the remainder of this AA screening.

12.5. Potential Effects on Designated Sites

12.5.1. Having regard to the potential zone of influence and the submitted AA document, the following Natura 2000 sites are identified as lying within the potential zone of influence of the development due to potential indirect hydrological connections between the development and the European Sites in Dublin Bay via the surface water sewer network and the foul sewer network:

- North Dublin Bay SAC (000206)
- North Bull Island SPA (004006)
- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)

There are no drains or streams within or adjacent to the development site. It is within the catchment of the Brewery Stream, which is 920m north of the site. Apart from brief open journeys through small parkland areas in Stillorgan, Carysfort and Rockfield, the stream is culverted for most of its length and flows into Dublin Bay at

Blackrock. Surface water from the development will connect to the local surface water sewer network which, according to the current EIAR and previous applications, will discharge to the Carysfort Maretimo / Brewery Stream and ultimately discharge to the Irish Sea/Dublin Bay at Blackrock. Wastewater from the development will connect to the existing foul sewer network and ultimately to Ringsend WWTP prior to discharge to Dublin Bay at Poolbeg. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise. The intervening land in each case is occupied by artificial/highly modified habitats. No significant effects will occur to the SACs or SPAs from surface water leaving the site during operation, and as a result of the distance and temporary nature of works, no significant effects to the SACs or SPAs will occur during construction. Pollution sources will be controlled through the use of best practice site management. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. These practices are not designed or intended specifically to mitigate any putative potential effect on a Natura 2000 site. During the occupation stage, there is a hydrological pathway through the foul sewers from the site to Dublin Bay via the Poolbeg WWTP. The indirect pathway of surface or foul water to Poolbeg will not result in a significant effect on the Natura 2000 site. The increased loading will be relatively small compared to overall capacity and therefore the impact of this project is considered to not be significant.

12.5.2. Habitats on the site are not suitable for regularly occurring populations of wetland or wading birds which may be features of interest of the above European sites. No ex-situ impacts can occur.

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

12.6. In Combination Effects

12.6.1. The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any

SAC or SPA. There are no projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

12.7. AA Screening Conclusion

- 12.7.1. In conclusion, therefore, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.
- 12.7.2. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

13.0 Conclusion and Recommendation

- 13.1. The development is considered to be compatible with the MOC zoning objective that applies at the development site. It will deliver a high quality residential development at a serviced site that is located at a central/accessible location adjacent to a public transport node. The proposed quantum and density of residential development are considered to be acceptable in principle in this context and with regard to relevant national and regional planning policies. The proposed height represents a reasonable response to its context. The development provides a satisfactory standard of amenity and public realm and will contribute to place making in the wider area. It is considered that the development will achieve or contribute to several objectives of the SUFP including in relation to the provision of active street frontages and a public plaza at the junction of Blackthorn Avenue and Ballymoss Road and enhanced pedestrian connections at Ballymoss Road. I am satisfied that the development is in accordance with the SUFP objective to provide a 'building of notable design' at this location. I am also satisfied that it will not result in significant adverse impacts on visual or residential amenities such as would warrant a refusal of

permission. I am satisfied that the development generally achieves an acceptable quality of design and finish such that it provides an adequate standard of residential accommodation for future occupants, subject to conditions, while making optimum use of this zoned and serviced site in an established residential and employment area adjoining the Stillorgan Luas stop. I also consider that the development is generally satisfactory with regard to national and development plan guidance for BTR development. I am satisfied that the development will not result in a traffic hazard or in undue adverse traffic impacts. Drainage, access and parking arrangements are acceptable subject to conditions. I am satisfied that the development will not be at risk of flooding and will not increase the risk of flooding elsewhere. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2016 be applied and that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

14.0 Recommended Board Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dun Laoghaire Rathdown County Council

Application for permission under section 4 of the Planning and Development (Housing) and residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 21st October 2021 by Palemink Limited.

Proposed Development:

Planning permission for a strategic housing development at this site of c. 0.377 ha at the former Siemens site, corner of Blackthorn Avenue and Ballymoss Road, Sandyford Industrial Estate, Dublin 18.

The development will include demolition of the existing building on site and the construction of:

- A 'Build to Rent' (BTR) apartment development consisting of two blocks of 14-15 storeys height (including basement).
- 190 number apartments comprising 92 number one-bed units, 86 number two-bed units and 12 number three bed units.
- The BTR development will also include resident support facilities and resident services and amenities including entrance foyer / concierge, management area, study workspaces, multipurpose room, storage areas, roof pavilions and bicycle service station.
- Non-residential uses comprising office space (518 square metres), restaurant (232 square metres), gym (163.5 square metres) and café kiosk (25 square metres).
- Provision of a public plaza at the junction of Ballymoss Road and Blackthorn Avenue (stated area 565 square metres), in addition to a publicly accessible garden amenity space (207 square metres) and communal resident amenity spaces (combined total area 1,223 square metres).
- Vehicular and cycle access from Ballymoss Road.
- A total of 59 number basement car parking spaces (54 number resident spaces and five number office spaces).
- A total of 474 number bicycle parking spaces (432 basement spaces and 42 surface spaces).
- All associated site development works, landscaping, boundary treatments, plant areas, waste management areas, and services provision (including ESB substation).

Decision

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

Matters Considered

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

Reasons and Considerations

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

- (a) The location of the site in an established mixed use area, adjacent to a public transport node and in an area zoned 'MOC' with the objective "To provide for a mix of uses, which complements the inner core, but with less retail and residential and more emphasis on employment and services".
- (b) The policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022, including the Sandyford Urban Framework Plan, which is set out as Appendix 15 of the development plan.
- (c) The provisions of the National Planning Framework with regard to compact growth and the provision of new homes within existing settlements, in particular Objectives 27 and 33.
- (d) The provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031.
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- (f) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government (2019).
- (g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009.

- (h) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018.
- (i) The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government 2020.
- (j) The Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009.
- (k) The nature, scale and design of the proposed development and the availability in the area of a wide range of educational, social, community, transport, and water services infrastructure.
- (l) The pattern of existing and permitted development in the area, and the planning history relating to the site and the wider area.
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority; and
- (o) The report and recommendation of the Inspector including the examination, analysis and evaluation undertaken in relation to screening for environmental impact assessment and screening for appropriate assessment.

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

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the

applicant's Appropriate Assessment screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

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

Thus, having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) the location of the site on lands that are zoned for mixed use development under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 undertaken in accordance with the SEA Directive (2001/42/EC),
- (d) the pattern of development on the lands in the surrounding area,
- (e) the availability of mains water and wastewater services to serve the development,
- (f) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended),

- (g) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003),
- (h) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- (i) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Planning Report, Environmental Impact Assessment Screening Report, Appropriate Assessment Screening Report, Infrastructure Report, Site Specific Flood Risk Assessment, Mobility Management Plan, Landscape Design Report, Microclimate Report, Public Lighting Report, Arboricultural Assessment and Arboricultural Report, Construction and Demolition Waste Management Plan, Construction Environmental Management Plan, Operational Waste Management Plan and Ecological Impact Assessment.

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

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this highly accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the

statutory plan for the area, a grant of permission could materially contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022 in relation to building height, car parking and housing mix. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan and Local Area Plan would be justified for the following reasons and considerations.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2 of the Guidelines, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to car parking and housing mix, regard is had to the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031, Project Ireland 2040 National Planning Framework and in particular National Policy Objective 35, and the provisions of Sustainable Urban Housing: Design

Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in December 2020.

Conditions

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

Reason: In the interest of clarity.

2. The proposed basement layout and cycle parking provision shall be revised such that the following issues are addressed to the satisfaction of the planning authority:
 - (a) The bicycle lift shall be increased in size such that it is capable of carrying a minimum of two cyclists.
 - (b) Covered cycle parking shall be provided at surface level.
 - (c) The basement access ramp shall have a revised gradient such that it is suitable for cyclists.
 - (d) A revised swept path analysis shall be submitted to the satisfaction of the planning authority.
 - (e) Revised basement cycle parking provision shall be provided to the satisfaction of the planning authority.

(f) Covered cycle parking at surface level shall be provided to the satisfaction of the planning authority.

(g) The car park layout shall be revised to indicate satisfactory provision for accessible parking.

Revised drawings showing compliance with the above requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development. In the default of agreement the matter(s) in dispute shall be referred to an Bord Pleanála for determination.

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

3. The roof top play areas shall be omitted.

Reason: In the interest of residential amenity and safety.

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

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

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

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

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

Reason: In the interests of orderly development and clarity.

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

Reason: In the interest of visual amenity.

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

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

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

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

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

Reason: In the interest of residential and visual amenity.

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

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

12. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

13. Prior to commencement of the development, details of all areas of boundary treatment, play equipment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of public communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

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

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

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments.

Reason: In the interests of amenity and public safety.

16. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground.

Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity

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

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

18. The internal road network serving the proposed development, including set down areas, footpaths and kerbs and the underground car park and ramps to same shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Details of signage in relation to cycle parking and safe access to same should also be submitted for agreement with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

19. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking, and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility

strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The Mobility Management Strategy shall also incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and units over time and shall include a strategy for the community use and any car-share parking.

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

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

Reason: In the interests of public safety.

21. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan and construction environmental management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

22. All open spaces and footpaths shown to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands.

Reason: In the interest of permeability and proper planning and sustainable development.

23. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

(b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

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

(d) A maintenance policy to include regular operational inspection and maintenance of the SUDS infrastructure and the petrol/oil interceptors should be submitted to and agreed in writing with the planning authority prior to occupation of proposed dwelling units and shall be implemented in accordance with that agreement.

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

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

Reason: In the interest of public health.

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

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

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

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

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of

payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

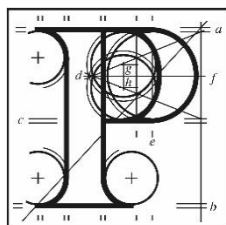
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

28. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Sarah Moran,
Senior Planning Inspector
4th February 2022

ABP-311722-21 Appendix 1: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-311722-21
Development Summary		Demolition of the existing building on site, construction of 190 no. Build to Rent apartments and associated site works
	Yes / No / N/A	-
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and an AA Screening Report were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA undertaken in respect of the Dun Laoghaire Rathdown County Development Plan 2016-2022.</p> <p>Refer to documents listed in section 12.6 of the Inspector's Report.</p>
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<p>B. EXAMINATION</p>	<p>Yes/ No/ Uncertain</p>	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</p>
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the construction of residential units on lands zoned 'MOC ' and is in keeping with the residential and mixed use development (existing and permitted) in the vicinity.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposal includes construction of a residential development (apartments) and associated facilities and amenities, as well as office space, a restaurant, a café kiosk and a gym, which are not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>

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

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

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in an increase in residential units of 190 no. units.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	Standalone development, with developments in the immediately surrounding area permitted or built.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	No conservation sites located on the site. The AA Screening report concluded that Stage 2 NIS was not required. This has been addressed in Section 12 of the Inspector's Report. The measures in question are not 'mitigation' measures for the purposes of Appropriate Assessment. I carried out a Stage I AA Screening and concluded no significant adverse impact on any European Sites and a Stage 2 NIS was not required.	No

2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No		No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	There are no Architectural Conservation Areas or Protected structures or other features of landscape, historic, archaeological or cultural importance in the vicinity of the site.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	There are no areas in the immediate vicinity which contain important resources.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The site is not adjacent to any watercourse and is not at risk of flooding.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion and the topography of the area is flat. Ground works and works to resolve the existing boundary walls will be subject to best practice.	No
2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network .	No

2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	There are no other existing sensitive land uses or substantial community uses which could be affected by the project.	No
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3. Any other factors that should be considered which could lead to environmental impacts

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

C. CONCLUSION

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

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands zoned to 'MOC' with the objective 'To provide for a mix of uses, which complements the inner core, but with less retail and more emphasis on employment and services' in the Dun Laoghaire County Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;
- c) the location and context of the site;

- d) The existing use on the site and pattern of development in surrounding area;
 - e) The planning history relating to the site
 - f) The availability of mains water and wastewater services to serve the proposed development,
 - g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
 - h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
 - i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
 - j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP)
- It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _____ **Sarah Moran**

Date: 4th February 2022