



An
Bord
Pleanála

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

Inspector's Report ABP-312070-21

Strategic Housing Development

Demolition of shed, construction of 146 no. Build to Rent apartments and associated site works.

Location

Lands at the former Ted Castles site and Dun Leary House (a proposed protected structure), Old Dun Leary Road, Cumberland Street and Dunleary Hill, Dun Laoghaire, Co. Dublin.

Planning Authority

Dun Laoghaire-Rathdown County Council

Applicant

Ted Living Limited

Prescribed Bodies

Irish Water
An Taisce
Irish Rail
TII
Department of Housing, Local
Government and Heritage

Observers

Chris Doorly
De Vesci House OMC CLG
Ed and Silvia Greevy
Elizabeth Quin
Fergal and Judy McLoughlin
Frances O'Neill
Gerry O'Connor
Grace Casey
Jane Lynch
John Conway and Louth
Environmental Group
Longford Terrace Residents
Association
Lynn Mckee
Mary Delehanty and Henry Leonard
Mary Fayne
Oliver Butler
Paul and Sally Ann Sherry and Others
Paul Sweeney
Peter and Helen Robertson
Residents of Clearwater Cove
Richard Boyd Barrett and Melissa
Halpin

Shari and Edmund McDaid
Sean O'Tarpaigh
Transport Infrastructure Ireland
Tony and Mary O'Grady
Tonya Meli
Victor Boyhan

Date of Site Inspection

28th February 2022

Inspector

Rónán O'Connor

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1.1. The site is located at the junction of Cumberland Street with Dunleary Hill and Old Dunleary Road, west of Dun Laoghaire town centre in County Dublin. A rail line is located to the north and the area around the site is built up with a combination of apartments and older two storey buildings. The site is bound by a high concrete block and stone wall in good repair and is accessed via a large steel gate painted black from Old Dunleary Road. A large two storey over basement dwelling is located to the south of the site and it fronts onto Dunleary Hill. The house is well maintained, it is known as Dunleary House (Yellow Brick House) and it is a proposed Protected Structure (in the Draft Dun Laoghaire Development Plan 2022-2028) and an objective for its retention is sought by the current County Development Plan 2016-2022 (Specific Local Objective 153).
- 2.1.2. The subject site is mostly level with a combination of hard standing and hardcore. The portion of the site adjacent to Dunleary Hill is graded back and planted with trees. Dunleary Hill is significantly higher than the site. A large open storage shed occupies the north eastern portion of the site. The shed is old but in generally good repair.

3.0 Proposed Strategic Housing Development

- 3.1.1. The development description, as per the statutory notices is as follows:
- The development will consist of the construction of a new development of 146 no. units (34 no. studio apartment units, 77 no. 1 bed apartment units and 35 no. 2 bed apartment units), and associated ancillary residential tenant amenities (c.468 m²) including a gym, atrium/reception area and skylounge. A retail unit (c.290m²) addressing Old Dun Leary Road and Cumberland Street is also proposed. It is proposed to adapt and incorporate an existing 4 storey building “DunLeary House”(a proposed Protected Structure) on site into the development to provide co-working

office suites (c.247m²). The proposed development has overall heights ranging from 6 storeys (with set backs from 4th & 5th storey) addressing Dun Leary Hill, to 5 and 8 storeys (with set back from 7th storey) addressing Old Dun Leary Road and 6-7 storeys (with set backs at 8th storey) addressing Cumberland Street.

Extensive residential amenity facilities are proposed (with a combined area c.468 m²) including a: gym and associated ancillary facilities at level 01G (c.120 sqm), multi-functional atrium/reception amenity areas at level 01G (c.251 m²); residential amenity (sky lounge facility approximately 97 sqm) with external terrace at level 7.

Private open space for the apartment units is proposed by way of balconies and shared landscaped terraces. Communal open space is provided in the form of a landscaped courtyard including a play area (c.482 m²) and landscaped roof terraces and external areas (c.392m² overall) with visibility from public areas

A part double height retail unit (c.290 sqm) addressing Old Dun Leary Road and the corner of Cumberland Street. 1 no. signage zone (c.6675mm x c.640mm;) on the façade addressing Old Dun Leary Road; 1 no. signage zone addressing corner Old Dun Leary Road and Cumberland Street (c.800mm x 6000mm) and 2 no. signage zones (1 no. backlit horizontal sign (c. 6000 mm x 700mm) and 1 no. backlit vertical sign (c.5160mm x 800mm) along Cumberland Street main entrance.

The refurbishment, partial removal and adaptation of a 4 storey building on site known as “DunLeary House” (a proposed Protected Structure) to provide co-working office suites (c.247m²) at Levels 01,02 and 03. The works will include partial removal of original walls and floors, removal of non original extensions to DunLeary House, repointing and repair of brickwork and granite fabric, reinstatement of timber sash windows, removal of existing roof, removal; alteration and reinstatement of internal floor layouts, reinstatement of entrance point on DunLeary Hill, removal of non original level 00 and linking the existing building to the new development from level 00 to level 03 with the construction of 3 new floors of development (with set back at roof level) above the existing building. It is proposed to repair, reinstate and improve the existing boundary treatment to DunLeary House.

Provision of 52 no. car parking spaces in total - 44 no. car parking spaces provided at level 00. At Cumberland Street 11 no. existing on street car parking spaces will be removed and 8 no. on street car parking spaces provided. Provision of 277 bicycle parking spaces (94 no. cycle parking spaces accommodated in bicycle stands and

183 no. long term bicycle parking spaces within a secure storage area) and 4 no. motorbike parking spaces, all at Level 00. Level 00 will be accessed via a new gated vehicular entrance and gated dedicated bicycle path off Old Dun Leary Road.

All associated ancillary plant areas/switch rooms/ESB substation/waste management/storage areas to be provided at level 00, with provision of green roofs (c. 1,157m².) at roof areas on levels 01, 06,07 and 08.

Significant Public Realm improvements including the provision of footpath upgrades, a signalised junction on Old Dun Leary Road and Cumberland Street including pedestrian crossings on all arms, landscaping and 32 no. bicycle parking spaces (located to the front of the proposed retail unit and at the corner of Cumberland Street), the inclusion of car parking spaces (as referenced above) on Cumberland Street and new public lighting.

All associated ancillary site development works including:

- Demolition of open fronted shed (371.7m²) located at the north eastern corner of the site with works including replacement of part of the boundary wall adjoining Clearwater Cove.
- all associated landscape and boundary treatment proposals
- all associated ancillary water and drainage works (including the diversion of existing sewer at Cumberland Street)

Key Figures

Site Area	Gross Site Area 0.559 ha (includes the area of public realm improvement works) Net Site Area 0.308 Ha (excluding area of public realm works)
No. of units	146 no. units
Density	Net Density: 474 units/ha
Height	4-8 Storeys
Communal Space	c875 sq. m.

Part V	15 no. units
Vehicular Access	From Old Dun Leary Road (N31)
Car Parking	44 no. spaces on site
Bicycle Parking	277 no. spaces
Other uses	Retail Unit (c.290 sq. m) Co-working office suites (c247 sq. m)

Apartment Type	Studio	1 bed	2 bed	3+ bed	Total
No. of Apts	34	77	35	n/a	146
As % of Total	23.3%	52.7%	23.9%		100%

4.0 Planning History

- 4.1.1. As detailed in the applicant's Planning Report, the site has previously been subdivided with applications relating to the north (Site A) and south (Site B) of the site.

Subject site (Site A/North)

PA reference D03A/0292 and ABP reference PL06D.204799 Permission was granted in 2003, for the demolition of the existing building on site and the construction of a 7 storey residential block comprising of 3 3-bed apartments, 52 2-bed apartments, 12 1-bed apartments with a coffee shop at ground level and a basement car park with 93 car parking spaces and a landscaped terrace. This was appealed in 2004 but permission was subsequently granted following conditions to reduce the height of the building by omitting the first floor. This omission brought the total number of permitted apartments to 55.

PA reference D06A/0312 – Permission Granted Revisions to planning application D03A/0292, to add 4 apartments.

Site B (South)

D3A/0291 and ABP reference PL06D.204798 – Permission granted by PA and on appeal for a 4 storey mixed-use development including the demolition of DunLeary House. The second floor was omitted by way of condition.

- 4.1.2. The permissions above were not implemented and have since expired.

ABP Ref 307445-20 – SHD Application – 161 BTR Units - Withdrawn September 2021

5.0 Section 5 Pre Application Consultation

- 5.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 19th December 2019 in respect of the following development:

- 161 Build to Rent apartments and associated site works.

- 5.1.2. I note that the pre-application proposal included the removal of Dunleary House in its entirety which is not proposed under this current application. I also note that the applicant was informed of the intention to include DunLeary House on the Record of Protected Structures (RPS) in January 2021, which is after the date of submission of the pre-application, after the pre-application meeting date and after the issuing of the Pre-Application Consultation Opinion.

- 5.1.3. In the Notice of Pre-Application Consultation Opinion dated 17th January 2020 (ABP Ref. ABP-305866-19) the Board stated that it was of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

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

1. Notwithstanding that the proposal constitutes a reasonable basis for an application, the prospective applicant should satisfy themselves that the proposal to remove Dunleary House (Yellow Brick House) and associated boundary provides the optimal urban design and architectural solution for this site and in this regard, the proposed development shall be accompanied by an architectural

report and accompanying drawings that outline the design rationale for the proposed building form in the context of the site topography and the architectural/landscape sensitivity of the wider area having regard to inter alia, National policy and Local planning objectives concerning building height, the site's contextual and locational attributes. The accompanying architectural report should outline the design rationale for the proposed building height, scale and massing in light of the publication of 'Urban Development and Building Height' 2018 and specifically with reference to Chapter 3 Building Height and the Development Management process, of the said guidelines. The applicant should satisfactorily demonstrate that the proposed development complies with the criteria as set out in section 3 of the guidelines in terms of the wider neighbourhood and the street, and responds positively to the specific characteristics of the site.

In this regard an appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant development plan and that specifically addresses any matter that maybe considered to materially contravene the said plan, if applicable.

2. A Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. Specific regard should be had to ground floor apartments at sensitive locations and existing adjacent properties. Drawings that detail dual aspect ratios should be clearly laid out and accompanied by a detailed design rationale report.
3. A mobility management strategy that shall be sufficient to justify the amount of parking proposed for cars and bicycles.
4. Additional drainage details for the site having regard to the requirements of the Drainage Planning as indicated in their report and contained in section 1.3 of the Planning Authority's Opinion. Any surface water management proposals, combined sewer diversion and other technical aspects of the proposal should be considered in tandem with any Flood Risk Assessment, which should in turn

accord with the requirements of 'The Planning System and Flood Risk Management' (including associated 'Technical Appendices'), specifically with reference to possible tidal flooding factors.

5. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority, and a detailed public realm strategy that outlines the provision of durable and acceptable materials and finishes that comply with the technical requirements of the planning authority. The applicant shall clarify how the works in the public realm will be carried out and by whom.
6. A detailed Construction Traffic Management Plan should be prepared with specific reference to any proposed sewer diversion works in the public road.
7. Construction and Demolition Waste Management Plan.
8. A proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains in use as Build to Rent accommodation. There shall be a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period (Your attention is drawn to the provisions of Specific Planning Policy Requirement 7 of the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018).

5.2. Applicant's Statement

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

Material Contravention Statement

- 5.2.2. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dun Laoghaire Rathdown Development Plan 2016-2022 in relation to the following matters:
 - Height

- Unit Mix
- Residential Density
- Car Parking
- Private Open Space
- Dual Aspect
- Transitional Zones
- Specific Local Objective 153 (The retention of The Dunleary House/Yellow Brick House and boundary)

5.2.3. I refer the Board to Section 13 of this report which summarises the contents of same and considers the issue of material contravention generally.

6.0 Relevant Planning Policy

National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I also note the Government’s Housing for All Plan (2021) which identifies the need to increase housing supply as a critical action.

Project Ireland 2040 - National Planning Framework (2018)

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

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables

alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management.

Section 28 Ministerial Guidelines

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013). Interim Advice Note- Covid 19 (May 2020).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

5.2 Regional

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

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

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

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

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

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

Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of

other infrastructure such as housing, water and power, can align their investment priorities.

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

5.3 Local

Dun Laoghaire Rathdown County Development Plan 2016-2022

The **Dún Laoghaire-Rathdown County Development Plan 2016-2022**, is the operative county development plan and contains general policies and objectives in relation to residential amenity standards. The site is located on land zoned Objective NC - to protect, provide for and improve mixed-use neighbourhood centre facilities.

Specific Local Objective 153 refers to the site; Dunleary House (Yellow Brick House) and associated boundary to be retained in situ and renovated. SLO

The lands are located within the Dun Laoghaire Urban Framework Plan, the site is highlighted as an opportunity site.

Policy RES 3 Residential Density:

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

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

Policy 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 - 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 –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’.

Chapter 2.2 - Sustainable Travel and Transportation.

Policy UD1: Urban Design Principles - all development is of high-quality design that assists in promoting a ‘sense of place’.

Policy UD6: Building Height Strategy- Compliance with the national guidance.

Appendix 9 details the Building Height Strategy.

Appendix 12 details the Dun Laoghaire Urban Framework Plan

Policy UD6: Building Height Strategy

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

- Section 8.2.3.2- (i) Density. The sustainable housing guidelines of 2009 are promoted and a minimum of 35 units per hectare are allowed with more than 50 required at public transport nodes.

- Section 8.2.3.3- Apartment Development

- (ii) 70% to have dual aspect,

(iii) mix required at a ratio of 40/ 40/ 20 for 1/2/3 plus units.

(iv) 22m separation distance required.

An advisory note at the beginning of the development plan to state that the standards and specifications as set out in Section 8.2.3.3 have been superseded by the implementation of the national apartment standards and those SPPRs contained within.

Car parking

Section 8.2.4.5- Parking provision in excess of the maximum standards set out for non-residential land uses in Table 8.2.4 shall only be permitted in exceptional circumstances as described below.

Reduced parking or car –free parking will be allowed in areas with high public transport accessibility.

Table 8.2.3: Residential Land Use - Car Parking Standards

Apartments- 1 space per 1-bed unit/ 1.5 spaces per 2-bed unit/ 2 spaces per 3-bed unit+/- (depending on design and location).

Chapter 8 refers to Principles of Development and contains the urban design policies and principles for development including public realm design, building heights strategy, and car and cycle parking. Policy UD1 refers to Urban Design Principles. Policy UD2 requires Design Statements for all medium to large developments, and UD6 refers to Building Height Strategy.

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

Policy RES3: Residential Density provides that 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.

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.

Specific Local Objective 153 of the Development Plan relates to the site and states that ‘Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated’.

As regards Protected Structures generally, Section 6.1.3 of the Development Plan relates to Architectural Heritage. Policy AR1 ‘Record of Protected Structures’ seeks to inter alia protect structures included on the RPS from any works that would negatively impact on their special character and appearance, to ensure that proposals have regard to the Architectural Heritage Protection Guidelines (2011) and to ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure. Policy AR2 relates to the required documents to be submitted with any applications relating to Protected Structures.

Draft Dun Laoghaire-Rathdown Development Plan 2022-2028

The Draft Dun Laoghaire-Rathdown Development Plan 2022-2028 has been adopted by Elected Members on the 10th March 2022 and comes into effect 6 weeks after this date (21st April 2022).

7.0 Observer Submissions

- 7.1.1. 29 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

Principle of Development

- Neighbourhood Centre is different form town centre or urban centre.
- Material contravention of the DLRCC Development Plan

- BTR will attract a transient community
- Does not address any of the objectives of the Dun Laoghaire Rathdown Urban Framework Plan
- Building Height Guidelines are not authorised by Section 28(1C) of the 2000 Act/such authorisation would be unconstitutional/Guidelines are contrary to the SEA Directive
- Grant of permission in excess of the maximum height is a contravention of the zoning objectives of the Development Plan/Board is precluded from granting permission in breach of a zoning objective
- Development is contrary to the current and incoming draft Development Plans
- Materially breaches Dev Plan in relation to height, density and plot ratio
- CDP is the key reference point for proper planning and sustainable development
- Entire strategy behind SHD has failed
- This proposal will be a planning disaster for the area
- Will set an undesirable precedent
- Proposal is only being used to inflate site value
- Units will not be affordable/will command a premium because of the sea views/does not seek to address the housing and rental crisis
- Proposal cannot be view as of strategic or national importance
- ABP has previously refused a development of a lower density, lower height and on a larger site than currently proposed (122 units – Randalwood) as it amounted to an overdevelopment of a restricted site/this application should also be refused
- Units are too small to facilitate working from home
- Proposed retail space should instead be use for serviced offices/hot desk pod
- ABP should prohibit short-term lets
- Dun Laoghaire does not need more retail space/has one of the highest levels of retail vacancy in the country

- The new LSRD system will also DLRCOCO work out the many flaws in this application with the developer
- Area is already well serviced by rental accommodation
- Proposed development contravenes the NC zoning objective
- Provision of a small retail unit fails to meet Objective NC as set out in the Development Plan

Design and Layout including Height and Public Realm/Conservation/Visual Impact

- Impact on the coastal zone/impact on protected views
- Impact on the ACA
- Impact on the Protected Structure
- De Vesci House is not 5/6 storeys, it is part 3/4/5 storeys
- Little change from the previously withdrawn application
- Design is not sympathetic to its context
- Visually dominant
- Materials are inappropriate
- No precedent for this massing and density
- No relationship between this proposal and the Victorian Terraces
- No exceptional public realm proposals
- Do not concur with the conclusions of the LVIA
- Buildings should not be taller than a Major Town Centre Site
- Urban Framework Plan anticipates the sensitive redevelopment of the Tedcastle Site
- Building Height Guidelines do not override the policies of the Development Plan
- Site is not within a town or city centre/is a suburban edge location
- Height guidelines set out appropriate heights for such locations
- Does not meet any of the criteria under Section 3.2 of the Guidelines

- Is in an architecturally sensitive location/between two ACA's and a large number of Protected Structures.
- Within a Scenic coastal area with a policy to protect views identified on the Development Plan Map
- Overbearing impact and loss of visual amenity
- Proposal is not in keeping with anything in the area
- Traffic is coming from Dun Laoaghaire to Monkstown/not a gateway into Dun Laoghaire
- Will impact on the historical church steeples
- Scale, height and density are inappropriate
- Only 1 no. six storey building (Clearwater Cove) is in the vicinity of the site/has a set back and is only 3 storeys where it addresses Dunleary Hill.
- Drawings are misleading
- Questionable Architectural Merit
- Design reference points are not comparable
- Is in direct conflict with the National Architectural Heritage Protection – Guidelines for Planning Authorities.
- Proposal will dominate skyline
- Will overshadow footpaths
- Will be up to 4 times the height of the homes surrounding it
- Protected structure will need to be radically altered and large parts of it demolished
- Will be expensive and technically difficult to retail the Yellowbridge House Structure
- Complex topography of the site
- Dun Leary House is situated within the curtilage of the Protected Structure
- Lack of reasonable space around the Protected Structure

- Overdevelopment of the site
- Loss of Sea Views
- Proposed views appear to deliberately omit the adjacent developments
- Board has previously reduced the scale of development on this site
- Elevational drawing submitted by the application purporting to show permitted development does not reflect the scheme as permitted.
- Proposals have not been sufficiently altered to address the concerns expressed by DLRCC relating to the loss of Dunleary House and the scale, bulk and height of the development proposed.
- Scale is far in excess of what is appropriate for a sensitive suburban location.
- Net site area is 3,085 sq. m/net density is 473 units/ha – applicants site area and therefore density figure is incorrect/surrounding roads are included/methodology to calculate density is not as per the Sustainable Residential Development in Urban Areas (2009)/this issue has been considered in a recent SHD (311100) – concluded that the net ‘developable area’ was the appropriate calculation.
- Densities greater than 473 units per hectare have only been granted once under the SHD procedure in 2021 (at 42A Parkgate Street – 30 storey building in a urban/city centre location).
- The applicant’s plot ratio figure of 2.59 is incorrect. The correct plot ratio is 1:4.5/this is in line with the densest SHD applications in the most urban of locations.
- Site coverage of 87.6% is excessive
- With reference to the criteria set out in the Building Height Guidelines, the following is noted – site is located within Coastal Fringe/located to the east of Monkstown ACA/located in an architecturally sensitive area/proposal fails to integrate or enhance the area/would harm setting of surrounding terraces/does not make a positive contribution to placemaking/massing and height are excessive/impacts on residential amenity/is considered monolithic/transient nature of BTR

- Impacts on views – proposals are in excess of 10m taller than Clearwater Cove and 7.7m taller than De Vesce Apartments/loss of view towards Mountains is significant/Impacts on views are greater than stated
- Proposal is contrary to Policy AR1 (ii) – impact on the proposed Protected Structure
- Contravenes SLO – loss of the interior of a fine building
- Applicant fails to address the need and importance of protecting some curtilage and setting around the Protected Structure
- Open space should be provided on the south/east side of Yellow Brick House/new building should be scaled back from the Protected Structure/scaled down
- Views from Protected Structure should be maintained
- Vesce Gardens is a Proposed Architectural Conservation Area
- Impact on De Vesce Terrace/De Vesce Gardens
- Dun Leary House is an important landmark building.is of social and industrial significance/defines the streetscape/is of architectural interest/high degree of survival of the original character and structure
- Brick and granite boundary wall tops and iron work should retained and restored
- Policy seeks retention of buildings like Dun Leary House
- Proposed upper floors over Dun Leary House should be omitted.
- Internal fabric should not be lost

Residential Amenities/Residential Standards

- Communal open space will not be utilised due to local wind effects/will be overshadowed
- Insufficient separation distances to surrounding properties
- Insufficient private open space
- Insufficient compensatory communal open space has been provided
- Insufficient separation distances

- Insufficient unit mix
- 16 no. north facing single aspect units
- Majority of units will be one and two beds which do not address the housing problems in the area
- Dual Aspect – does not meet 70% standard as set out in the CDP - Section 16.3.3 refers/does not allow for north facing single aspect apartments/16 units are north facing single aspect/has been previous refusals on this issue (306225-19 & 308432-20)
- Inadequate play space for children
- Lack of private open space

Surrounding Residential Amenity

- Impact on the amenity of the residents of De Vesci House
- Impact on daylight, sunlight
- Impact on privacy
- Overlooking and loss of privacy
- Communal terrace will overlook adjacent properties
- Noise Pollution/ Noise from construction
- Will cause overshadowing
- Issues raised in relation to previous applications have not been addressed in this proposal including overlooking of Clearwater Cove/protection of residential amenity
- Proposal would overlook the communal open spaces of Clearwater Cove including the rooftop areas/these spaces are not shown on the applicants documentation/would overlook No. 100 Clearwater Cove.
- In relation to daylight and sunlight, an assessment of the south-facing windows immediately to the east of the proposed development would have been preferable/no assessment of the lower level apartments in Clearwater Cove has been carried out.

- Layout of Unit 100 Clearwater Cover as shown in the report is not correct and appears to show an apartment from the other end of the building.
- If ABP are minded to grant, conditions should be imposed in order to protect residential amenity
- Negative impact on residential amenity

Traffic and Transportation

- Road is being made narrower
- Public car parking spaces have been utilised in this application
- Proposed street parking will create a blind junction
- Lack of parking for the retail units
- Inadequate parking provision
- MMP states that more than 60% of trips were made by car
- Residents of the development should be prohibited from obtaining resident's parking permits
- No provision for a cycle path as part of the proposed development
- Waste collections should be carried out from the envelope of the proposed underground car park
- Waste collection arrangements are not practicable/require heavy bins to be pushed uphill/would require the 4 no. car parking space along the boundary path to be empty.
- Will add to traffic congestion
- TTA is not adequate
- Traffic survey was insufficient/was limited to an analysis of one slop road to the side of the development/took place before the close of the N31 to traffic and the creation of a coastal cycleway/rest of TTA is based on erroneous and unsupported assumptions
- Surrounding homes are reliant on on-street parking
- Data uses in the TTA is not reliable

- 8 of the proposed parking spaces are actually 'on-street'
- Serious traffic congestion in the area
- Traffic is now forced onto the R119 to the south of the site as a result of cycle lane works
- It is unlikely this 'temporary measure' will be removed.
- Cycle lanes are primarily a leisure facility
- No. 7 Bus Route has no bus lane for most of the route into town/is slow and underused
- DART service is often full by the time it reaches Monkstown Station
- A car is a necessity for many/only way to access many parts of the city.
- Many occupants will own cars/there are no large employers in this residential area/young families will require a car
- Residents will park on surrounding residential streets/will overburden the residential parking permit system
- Two SHDs have been permitted in the area/will add to the traffic congestion/parking issues
- Peak parking demand is at the weekend/insufficient spaces
- Coastal cycle lane/Outdoor dining has resulted in the removal of a lot of parking
- Have conducted a study which shows the area was completely over parked
- Deputy CEO of DLRCC/Garda have stated the area is dangerously overparked and congested
- Cycle parking does not meet the standards of the DLRCC Plan.

Ecology/Trees/EIA/AA

- Impacts on biodiversity within De Vesci Gardens (attached supporting report on Biodiversity in the Monkstown Area).
- Does not include an EIA report in the application
- EIAR is deficient

- Board does not have sufficient ecological and scientific expertise to examine the EIA Screening Report
- Documentation does not comply with the requirements of the PDA 200/Planning and Development Regulations 2001/EIA Directive
- AA – information provided by the development contains lacunae and is not based on appropriate scientific expertise/Proposed development does not comply with the requirements of the PDA 2000 (as amended)/does not comply with the requirements of the Habitats Directive

Flood Risk/ Site Services

- Existing flooding in the area
- Regular sewerage smells and flooding problems
- Sewerage capacity
- Flooding and drainage issues in the vicinity
- No consideration is given to the flooding hotspot to the north of the site.
- Fails to address serious flooding and drainage issues

Other Issues

- Inadequate childcare provision
- Insufficient detail of the sub-structures
- Documentation has not demonstrated that there is sufficient infrastructure capacity to support the development
- No crèche facilities in the area.
- Consent of the landowner is required/portion of the site is not within applicants nor DLRCC ownership

8.0 Planning Authority Submission

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

Principle of Development

- Site is an urban infill site within the Dublin Metropolitan Area, with reference to the RSES for the EMRA.
- Site is well connected in terms of transport services
- Site has an important role in terms of consolidating growth within the Metropolitan Area
- Concerns in relation to the design and scale of the proposal/height, scale and massing/impact on residential amenities of existing adjoining residents/amenities for future occupiers
- Unclear from the drawings what type of retail or convenience offering is proposed in the application
- Proposed retail unit would help to meet the local day-to-day needs of surrounding residents and would help improve the mix, range and type of uses within the centre and would help to promote its mixed-use potential
- Residential component has the potential to add vibrancy to, and strengthen the role and function of the neighbourhood centre
- Principle of the proposal is therefore acceptable subject to a carefully considered architectural response
- Provision of a ground floor retail unit viewed favourably/acceptable in principle
- Little information in relation to the specific nature of the proposed retail uses/condition recommended in relation to same
- Proposal involves removal of significant elements of Yellow Brick Building/would not accord with Specific Local Objective 153/not be consistent with its addition to the Record of Protected Structures.
- A net density of 474 units/Ha is excessive/would represent overdevelopment of the site
- Height
- There are few submitted close distance montages/with regard to direct views of the east elevations/looking directly from the north

- In relation to the Building Height Strategy, site is located in the Coastal Fringe/not been demonstrated that the development would not harm the particular character of the coastline.
- Proposal fails to have due regard to its surrounding context and would have a detrimental impact on the character of the surrounding area.
- Proposed development, by reason of its overall height and location, taken in conjunction with the overall massing, and form of the proposed apartment blocks, would be visually dominant within the existing streetscape.
- Proposed development would unduly impact on the character, and visual amenity, of the receiving environment of Old Dunleary Road, Cumberland Street and Dun Leary Hill/would not accord with the principles of Policy UD 1 of the Development Plan
- In relation to the Building Height Guidelines, the site is well served by public transport with high capacity, frequent service. However it does not successfully integrate into or enhance the character of the area/does not respond to its overall natural and built environment/does not make a positive contribution to the urban neighbourhood and streetscape.
- In principle the site can absorb additional height, subject to a carefully considered architectural response.
- Proposal would dominate views when entering the area from Monkstown, Dun Laoghaire and from the coast road, and would create an imbalance within the streetscape.
- Proposal is visually overbearing
- Not satisfied that the incorporation of public realm improvements will successfully ameliorate or mitigate this impact.
- Mix of units/uses is generally acceptable
- Concerns in relation to the number of dual aspect units *44.5%)/also classification of some units as dual aspect/number of north facing dual aspect units
- Conservation Officer has raised concerns in relation to the proposal (see summary of report below)

- Yellow Brick House/Dunleary House is a proposed Protected Structure in the Draft DLRCC Development Plan 2022-2028
- Proposal does not meet the criteria set out in the Development Plan/Building Height Strategy/Urban Framework Plan/Building Heights Guidelines
- Urban Design
- Proposal to develop this site is generally in accordance with plans for the site as set out in the Framework Plan, save for significant removal of elements of the Yellow Brick House
- Large urban block is not characteristic of the typology of the area/more reflective of an inner city context/proposal would appear overly bulky
- Built Heritage
- At the time of writing the building is a proposed Protected Structure/Refers to contents of Conservation Officer's Report (see below)
- PA consider that the proposal should be refused planning permission, having regard to the contents of the Conservation Officer's Report.

Residential Standards

- Proposal would generally satisfy the requirements of SPPR 7 of the apartment guidelines in relation to BTR.
- Note the relatively small size of the apartment units
- Mix is in accordance with the Apartment Guidelines
- Note that 16 no. units do not have a balcony (c 11%)
- Proposed communal open spaces do not provide an appropriate alternative
- Proposal would result in substandard form of accommodation for future occupants
- PA is of the opinion the site is located within a 'suburban or intermediate' location as per SPPR 4 of the Apartment Guidelines/have concerns with the classification of some units as dual aspect.

Residential Amenity

- Not considered any unreasonable overlooking of adjacent properties would result from the development.
- However, it is considered proposed development would appear overly bulky and overbearing/would unreasonably compromise existing residential amenity of the properties for the north, DeVesci apartments to the west, Clearwater apartments to the east.
- Only a sample of surrounding windows have been examined for daylight impacts/gives rise to some concern that some potential impacts may not be identified.
- Concerns in relation to overshadowing impacts
- Quantum of communal open space provided would meet the Communal Open Space requirements of the Apartment Guidelines.

Drainage/Flood Risk

- Please refer to summary of Drainage Planning Section below.

Transport

- Please refer to the summary of the Transportation Planning Report below.

Waste Management

- Please refer to the summaries of the Waste Section Report and Transportation Planning Report below.

Part V

- 15 units are proposed/none are dual aspect.
- Condition recommended

Public Lighting

- Please refer to the summary of the Public Lighting Section below.

Taking in Charge

- Condition recommended.

Conclusion

- PA generally welcomes the provision of a mixed-use scheme on this significantly underutilised brownfield site.
- Provision of public realm improvements/ground floor retail use/with residential above/can create vibrancy and bolster the function of the existing neighbourhood centre/proposal would generally accord with the Urban Framework Plan.
- Proposed development include the removal of the significant elements of the Yellow Brick Building/would not wholly accord with SLO 153/with designation as a proposed Protected Structure as part of the Draft County Development Plan.
- Significant concerns regarding the overall scale, height and massing of the proposed building/particularly the 5/6 storeys to the south elevation, the proposed 5 and 8 storey elements to the north elevation/west/eastern elevations/proposal would constitute overdevelopment.
- Will have a detrimental impact on the character of the surrounding area and the visual amenities of the area.
- Considered contrary to Section 8.3.2 (Transitional Zonal Areas) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 as it will significantly compromise the residential amenity of properties located within its immediate vicinity which are located on lands zoned Objective A.
- Does not meet the standard for private open space provision (Appendix 1 of the Apartment Guidelines)/only a limited amount of fully dual aspect units/would result in a substandard level of a residential accommodation.

8.1.2. Section 14 of the Planning Authority's submission sets out the that Planning Authority recommends that permission be **REFUSED** for 4 no. reasons as set out below:

1. The proposed development, by reason its scale, height and massing, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposal is considered to constitute overdevelopment of the site and is considered to be contrary to Section 8.3.2 (Transitional Zonal Areas) of the Dun Laoghaire Rathdown County Development Plan 2016-2022, insofar as it will seriously injure the residential amenities of properties located within its immediate vicinity by reasons of being visually overbearing and overshadowing. The proposed development is considered to be

contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. There is a 1200mm ID combined sewer passing through the site and a diversion of this is required. It has not been demonstrated that the required diversion of this asset is feasible. Given the significance of the public 1200mm sewer infrastructure within the site and the need to protect this asset, combined with the requirement for further detailed studies to be carried out to determine the feasibility of any diversion, it is considered that the application is premature pending the capacity of the foul sewer infrastructure to be diverted, and would be contrary to the proper planning and sustainable development of the area.
3. The proportion of single aspect apartments in the proposed development would contravene Specific Planning Policy Requirement 4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in 2020. The quantum and location of compensatory communal open space is not considered adequate to compensate for the proportion of individual units without private amenity space and would therefore contravene Specific Planning Policy Requirement 8 of the Guidelines. The proposed development would, therefore, fail to provide an adequate level of residential amenity for future occupants of the scheme, and would be contrary to Ministerial guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000 as amended. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. Specific Local Objective 153 relates to this site which states that 'The Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated' The proposal includes the removal of a significant proportion of the exterior and interior elements of the Yellow Brick Building known as 'Dunleary House' (addressing Dunleary Hill) which is also designated as a proposed Protected Structure in the Record of Protected Structures in the draft County Development Plan 2022-2028. The development as currently proposed, would

not, therefore, accord with Specific Local Objective 153 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, or the proper planning and sustainable development of the area.

8.1.3. Section 15 sets out suggested conditions in the event of a grant of permission.

Conditions of note include:

- Condition 2 – relating to the final use of the retail unit.
- Condition 7 – relating to the diversion of the existing combined sewer/drainage works

Internal Reports

8.1.4. Appendix A of the Planning Authority's submission sets out DLRCC's Interdepartmental Reports. I have summarised these below.

Conservation Officer

- Subject site is a sensitive site that the Building Height Guidelines refer to
- Missing information from the Conservation Report including historic maps/internal and external photographs/Outline Conservation Specifications/impedes a full and considered appraisal of the proposal.
- Submitted photographs show the interior retains many architectural features at Ground and First Floor levels.
- Significant amount of fabric removed/amounts to not much more than façade retention, which is contrary to good conservation practice/as per Architectural Heritage Guidelines.
- Works will unduly compromise the integrity and architectural character of the proposed protected structure.
- Removal of the roof and addition of 3 new floors above is at odds with CDP policy/with the Guidelines.
- Other examples referenced in the report are not comparable/examples shown are large-scale commercial/industrial structures.
- New build will have an overpowering and dominating impact on the original structure.

- Seems feasible that more of the original fabric could be retained and repurposed in a more sympathetic manner/ABP should direct the applicant to retain more of the essential form of the existing structure and better integrate it with the new build.
- Not opposed to extensions to a Protected Structures or to new development adjacent to a Protected Structure/many examples located in the DLRCC area.

Transportation Planning

- Generally in favour of a development of the proposed site which includes improvement of the forward visibility along Old Dun Leary Road/signalisation of the junction between Cumberland Street and Old Dun Leary Road/reduction in the width and corner radii of Cumberland Street
- SHD is inadequate in some aspects
- Consider the car parking provision is too low.
- Resident cycle parking is double stacked rather than Sheffield Stands
- Expect cycle parking provision to exceed the standards in the Apartment Guidelines.
- Accepts that proposed development will not cause excessive delays/queueing – junction capacity issues will not arise.
- Proposed vehicular access provides inadequate/insufficient visibility between exiting vehicles and pedestrians passing on the adjacent footpath and vice versa.
- Servicing should take within the curtilage of the development/concerns in relation to the proposed method and scale of collection/removal of refuse.
- Condition required in relation to amendments to the submitted roads layout as a result of DLRCC Temporary Covid-19 Mobility Measures.
- Conditions are recommended.

Transportation Planning – Public Lighting

- Lighting design does not meet their own stated light level requirements/lighting design is excessively bright for the area and road types/need to reduce light levels.

- Proposed lighting design is not acceptable to the public lighting section.

Environment Section

- Proposed waste collection system is not acceptable.
- Waste collection should be managed within the curtilage of the development.
- Condition in relation to the potential nuisance in the selection of the foundation design and construction methodology.
- Conditions recommended.

Drainage Planning

- Concern that proposal would exacerbate the widely known sewer capacity issues in the area/may not be within the gift of the applicant to provide a solution/therefore it is not possible to address via conditions/until Irish Water addresses the network capacity issues in the area the development would be premature/should be refused by APB.
- Surface water proposals lack detail/however it is possible to determine that the principles of what is being proposed should work/subject to more information being submitted at compliance stage.
- Conclusions of the SFRA are accepted.
- Conditions are recommended.

Housing Department

- Council priority to acquire residential units for social housing/to phase out long-term leasing of social housing/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.

Environmental Health Officer

- Recommends conditions

Elected Members

- 8.1.5. Section 9 of the Planning Authority's submission sets out the views of Elected Members as expressed at the HEPI, Area Committee Meeting held in County Hall,

Dun Laoghaire-Rathdown County Council on 12th January 2022. This is reproduced below:

- Proposal disrespectful of inclusion of Dun Leary/Yellow Brick House into the Draft Development Plan Record of Protected Structures
- Proposal disrespectful of current SLO and damaging to architectural integrity of the house, and adjacent ACA
- Proposal should start at the beginning of the SHD process, as a new SHD
- The photomontages and views should be verified on site
- All of the metrics of the proposal contravene the Development Plan i.e. in height, density, unit mix, open space and parking and size and scale are overdevelopment and excessive
- Serious negative impacts on the amenities and views of adjoining apartment residents
- Should refer to the Building Height Strategy
- Traffic safety impacts on north vehicular access
- Maybe less parking would be appropriate
- Negative impacts on views from distances including Monkstown Village and West pier.
- Examples of DCC area development practice should not be used as a defence for scheme.
- Not a town centre site
- Site is zoned NC, submitted documentation states that proposal is a city/town centre site, which it is not. This needs to be taken on board with regard to proposed height.
- Overshadowing.
- Lack of easily accessible semi-private/communal space
- Architectural impact damaging to Yellow House
- Excessive height

- Proposal would dramatically change views of the area
- Both Building Height Strategy and Guidelines are breached in this application.
- Excessive overdevelopment and affects the adjoining apartment building
- Height towering 3 storeys above height of neighbouring buildings is unacceptable
- Unacceptably imposing on the other structures in the area
- Concern regarding detail of submitted photomontages, and concerns they are misleading/inaccurate, and request that the Board verify photomontages.

9.0 Prescribed Bodies

Irish Water

- Recommend conditions

An Taisce

- Height, scale and massing are inappropriate for the location
- Would have a significant adverse impact on the character of Dun Leary House
- It is the sole remaining Victorian yellow brick building of its kind in Dun Laoghaire
- Proposed development is incongruous with the house
- Addition would dominate the historic building
- Would be contrary to SLO 153
- Does not successfully integrate and enhance the public realm
- Scale and height of the proposal are overbearing for this prominent site

Transport Infrastructure Ireland

- No observations to make.

Irish Rail

- Recommend conditions

Department of Housing, Local Government and Heritage

- Archaeology – Agrees with the mitigation as set out in the applicant's Archaeological Assessment Report/Recommends archaeological monitoring

10.0 Assessment

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

- Principle of Development
- Mix of Uses/Neighbourhood Centre Designation
- Impact on the Proposed Protected Structure
- Design including Heights and Layout/Visual impact
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transportation
- Ecology/Trees
- Flood Risk
- Site Services
- Other Issues
- Planning Authority's Recommended Reasons for Refusal
- Material Contravention

10.2. Principle of Development

Zoning

10.2.1. The site is zoned 'Objective NC – To protect, provide for and/or improve mixed-use neighbourhood centre facilities'. Residential use, which includes Build-To-Rent (BTR) accommodation, is listed as a 'permissible use' on this land use zoning and is considered an appropriate use for the site. The Planning Authority has not raised an objection to the proposed Built-to Rent accommodation on the site and have stated that the residential component has the potential to add vibrancy to, and strengthen the role and function of the neighbourhood centre.

10.2.2. Within the NC zoning, 'Shop-Neighbourhood', 'Tea-Room/Café', 'Offices less than 300 sq. m' are permitted in principle. The proposal also includes a retail unit of 290 sq. located on the ground floor of the proposed development, fronting onto Old Dun

Leary road and addressing the corner of Old Dun Leary Road and Cumberland Street. Co-working office space is also proposed, totalling 247 sq. m, located within the retained Yellow Brick House. The Planning Authority has stated the proposed retail unit would help to meet the local day-to-day needs of surrounding residents and would help improve the mix, range and type of uses within the centre and would help to promote its mixed-use potential. I share this view and I am also of the view that the proposed co-working space would add to the vitality and viability of the retail use on the site, and contribute socially and economically to the immediate surrounding area, which is served by a public houses as well as restaurant uses.

- 10.2.3. While no end user has been defined for the retail unit, the planning authority has suggested a condition be imposed in relation to the end user and I am minded to agree with same.
- 10.2.4. I note that some observer submissions have stated that the proposal contravenes the NC zoning objective. A further submission has stated that another retail unit is not needed here and that Dun Laoghaire has one of the highest retail vacancy rates in the country. It is further set out that the retail floorspace should be used instead for co-working office space. In relation to same, the proposed uses are in line with the zoning objective for the site and I am satisfied that the proposal does not contravene the zoning objective for the site. In relation to the retail use, this use adds to the mix of uses on the site, in line with the overall vision for such neighbourhood centre site. There are few retail units in the immediate vicinity, with the closest being the retail unit associated with the filling station. As such it would appear that a retail unit would have sufficient demand so the risk of vacancy is minimal in my view. I note that co-working space is already being provided on the site, which also adds to the variety of uses on the site, and I am not of the view that there is an overriding need to replace the retail floorspace with additional co-working space, nor is the Planning Authority of that view.
- 10.2.5. In conclusion, I am of the view that the proposal complies, in principle, with the various zonings on site, having regard to the mix of uses proposed, 'permitted in principle'. I would further note the extent of non- residential uses proposed at ground floor, in that level 00G comprises the retail use which has a frontage onto Old Dun Leary Road, and a partial frontage onto Cumberland Street, with the co-working office space within the first two floors of Dunleary House, fronting onto Cumberland

Street, all of which increases the activity and animation at street level and provide passive surveillance of the proposed public realm.

- 10.2.6. I have considered how the proposal complies with the broader aims and objectives of the Dun Laoghaire-Rathdown Development Plan 2016-2022, as relates to neighbourhood centres in Section 10.3 below, and I have considered the issue of surrounding residential amenity in Section 10.7 below.

Build to Rent (BTR)

- 10.2.7. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on the build-to-rent (BTR) sector. It is noted that these guidelines have been recently updated in 2020. They define BTR 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”. These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. In this regard, a Property Management Strategy Report has been submitted with the application.
- 10.2.8. The proposed BTR units are described as long-term rental, to remain owned and operated by an institutional entity for a minimum period of not less than 15 years. It therefore falls within the definition of BTR provided in section 5.2 of the Apartment Guidelines, i.e. 1. “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.”
- 10.2.9. Section 5.7 of the Apartment Guidelines notes BTR development can deliver housing units to the rental sector over a much shorter timescale than traditional housing models, making a significant contribution to the required increase in housing supply nationally, identified by Rebuilding Ireland and Housing for All, and the scale of increased urban housing provision envisaged by the National Planning Framework.
- 10.2.10. As noted above, the Planning Authority have not raised an objection in principle to the proposed BTR scheme at this location.
- 10.2.11. Observer submissions have stated that such BTR uses attract a transient population and do not add to the sense of community in the area. It is further stated that the

area is already serviced by rental accommodation. I have considered these issues below.

10.2.12. In terms of the location, the site is within 300m of Salthill & Monkstown Dart Station and is served by a number of bus services as set out above with good pedestrian connections to same, and as such I am of the view that the site is well served by a high frequency public transport system. I note the Planning Authority, in their submission, has described the site as an 'Intermediate Suburban Location'. However I am not in agreement with same, for the reasons as set out in Section 10.6 below. It is my view, therefore, that the proposed BTR units are therefore appropriate at this accessible urban location.

10.2.13. SPPR 7 of the Guidelines provides that BTR development must be:

(a) Described in the public notices associated with a planning application specifically as a 'Build-to-Rent' housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;

b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc

10.2.14. The public notices specify that the development includes BTR units, as required by SPPR 7 of the Guidelines. The BTR apartments are to be subject to a long-term

covenant or legal agreement in accordance with SPPR 7. As per the application documentation, the proposals include residential services and amenities as well as residential support facilities including a gym, a multi-functional atrium/reception amenity area, residential amenity areas and residential support facilities – including maintenance and laundry facilities and external terrace. The proposals also provide for a retail unit and co-working office space, which will be open to the public but will also provide additional amenities to the future residents of the scheme. The Planning Authority have not raised any issues in relation to the quantum of quality of the proposed residential support services or amenities provided under this proposed development, and have stated that the proposal would generally satisfy the requirements of SPPR 7 of the apartment guidelines in relation to BTR. I am satisfied that there is a sufficient quantum of same provided, and the proposal is in line with SPPR 7.

10.2.15. In relation to the assertion that BTR schemes attract a transient population and do not foster a sense of community, there is no evidence to support this. Conversely, and as noted in Section 5.5 of the Apartment Guidelines, such BTR schemes are designed to facilitate and encourage longer-term rental, with security of tenure and provision of amenities and facilities on site, with such longer term tenancies allowing occupiers to become more integrated with neighbouring tenants and with the community as a whole. In relation to the assertion that there are sufficient rental properties available in the area, again no evidence has been submitted to support this, and it is likely the converse is the case, with the lack of availability of housing, both for the private market and for rental, a key issue at national level, and is generally termed ‘a housing crisis’. As previously noted, BTR schemes, such as this one, go some way towards addressing the supply issue. National policy and data regarding this issue highlights the discrepancy between supply and demand existing across all sectors and tenancy types, and that rental costs will only decrease as supply increases to match demand, also allowing for choice.

Density

10.2.16. The proposed net density is 474 units/ha. I note that applicants have provided two alternative figures for density, one which includes those areas of public realm, and one which considers only the net site area. As per the guidance in the Sustainable Residential Guidelines, it is the latter figure which is the appropriate density figure for consideration here. This issue has been raised by an observer submission and I

concur with the points made by same in relation to density in which it is stated that the relevant density figure is 474 units/ha.

10.2.17. The Planning Authority have not objected explicitly in relation to the density of the proposal (in terms of numerical values) but have stated that the proposal is an overdevelopment of the site. Further concerns in relation to the overall design of the proposal and its integration in to the neighbourhood (see detailed discussion of same in Section 10.5 below).

10.2.18. Observer submissions have stated the proposal materially contravenes the development plan in relation to *inter alia* the density and plot ratio. It is stated that ABP has previously refused a development of a lower density, lower height and on larger site than currently proposed (122 units – Randalwood) as it amounted to an overdevelopment of a restricted site. As such it is stated that current application should also be refused. It is also stated that there is no precedent for such density. It is further stated that densities greater than 473 units per hectare have only been granted once under the SHD procedure in 2021 (at 42A Parkgate Street – 30 storey building in an urban/city centre location). I have considered the issues raised in these submissions below.

10.2.19. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.

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

10.2.21. In relation to Section 28 Guidelines, I note the provisions of the Apartment Guidelines (2020) which state, with respect to location, that apartments are most

appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.

10.2.22. The Planning Authority have stated that the site is well served by public transport with a high, capacity frequent service (with reference to the Building Height Guidelines). However, the Planning Authority have also stated that the site is located within a 'suburban or intermediate' location as per SPPR 4 of the Apartment Guidelines (with reference to the provision of dual aspect units). My view is that the site lies within the category of a Central and/or Accessible Urban Location as defined within the Apartment Guidelines (2018), given the site's location relative to public transport network, and given it lies within the boundaries of the Dun Laoghaire Urban Framework Plan (see discussion below and also in Section 10.6 of this report). The Guidelines note that these locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments. Such 'Central and Accessible Urban Locations' are defined as follows:

Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;

10.2.23. I note that this site is within walking distance of Dun Laoghaire Town Centre, which provides significant employment opportunities. It is also within 600m of St. Michael's Hospital and within 200m of Dun Laoghaire College of Further Education. As such it is my view the site falls within this category.

Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and

Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

10.2.24. The site lies within 300m of Salthill & Monkstown DART Station which provides high capacity transport services. DART Trains run at a ten minute frequency between DART series run at a frequency of every 10 mins between 06:50am and 8pm. In

relation to high frequency bus services, the site is a maximum walk of 500m from the 46a Bus Stop at Crofton House (which serves Buses Travelling towards Dun Laoghaire Town Centre) and is a maximum 550m walk to the Smith Villa's Stop (No 2042) on York Street which also serves the 46a, serving buses travelling towards the City Centre. While technically the site complies with the criteria in relation to bus services, it is more likely that future occupiers would utilise the latter stop so the site falls slightly outside the distance criteria in my view. Notwithstanding, the site complies with the criteria in relation to DART services. I note that the National Transport Authority (NTA) describe in their 'Transport Strategy for the Greater Dublin Area' which includes that "Heavy rail (DART and Commuter Rail) provides the core high capacity infrastructure and services that are central to the Greater Dublin Area's public transport system." Figure 3.1 'Dublin Frequent Transport Services Map' of the strategy also includes the DART service. As such, I am satisfied that the DART service serving this site can be described as a high capacity, frequent service, as per the NTA strategy. I am also satisfied that Salthill & Monkstown DART Station can be accessed from the subject site via pedestrian links, being a reasonable walking distance and utilising a straightforward route over easy terrain. The DART services provide direct connections into Dublin City as well as interconnections to other public transport options via other stops, including to frequent bus services (as illustrated in figure 3.1 of the strategy). The 46a Bus Route is also defined as a Frequent Service, as detailed in Fig. 3.1 of the strategy.

10.2.25. In principle, therefore, a higher density such as that proposed here is supported by the Apartment Guidelines, having regard to the locational characteristics of the site as considered above.

10.2.26. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), the site could be considered under the category of a 'Public Transport Corridor' as it is within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Given the site is approximately 300m from the nearest DART station which is a high frequency,

high capacity transport service, with trains running every 10 minutes during the morning peak hours. No upper limit on density is specified in these Guidelines, as relates to this specific category of site. The Guidelines make reference to 'City/Town Centre Sites' also. However, notwithstanding the site does not lie within Dun Laoghaire Town Centre itself (as defined on the Development Plan Zoning Maps) and I am not of the view this category of site is applicable here. The criteria relating to such sites make reference to the preservation of protected structures and the character and appearance of Architectural Conservation Areas. I have considered the issue in Sections 10.4 and 10.5 below. However, I am not of the view that this criteria is applicable to this particular site (as relates to the issue of density specifically). As such, having regard to the discussion above, the density is also supported, in principle, by these guidelines.

10.2.27. In relation to other relevant Guidelines, I note the provisions of the Urban Development and Building Height Guidelines (2018). While the issues of density and height are not necessarily one of the same, generally higher densities are associated with higher forms of developments and as such there is some interrelationship between the two issues. As such it can be argued that appropriate densities should also be determined with reference to these guideline. In relation to same, I have considered the issue of height (and therefore indirectly the issue of density) specifically in Section 10.5 below and the relevant guidance applicable to same.

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

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

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

10.2.29. The supporting text for same states that higher residential development may be constrained by Architectural Conservation Areas (ACAS), Protected Structures and

other heritage designations, and new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity. I note the proposed Protected Structure on the site and the proximity to the closest Architectural Conservation Areas (ACAS) (as discussed in Section 10.5 of this report). As there is some constraint in relation to the amount of development on such site (in terms of Development Plan policies on density), although there is no explicitly stated numerical limitation, as relates to this site, in the Development Plan. I have discussed the issue of Heritage and Conservation in Section 10.4 and 10.5 of this report.

As is Policy RES4: Existing Housing Stock and Densification:

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

10.2.30. Section 8.2.3.2 (ii) of the Development Plan refers to residential density, and states *inter alia* that in general, the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) (see discussion of same above). I am satisfied that the proposed density is, in principle, in line with the density allowed by these guidelines, and as such the proposal does not materially contravene this aspect of the Development Plan (see also Section 10.14 below).

10.2.31. In relation to the issues raised by Observer Submissions, I note that a previous refusal for a development of a lower density is referred to (Ref 308432 – Richmond Park Monkstown for 122 units). The Board refused this case for two no. reasons, which related to residential and visually amenities generally (reason no. 1) and which related to residential standards generally, including number of north-facing single aspect units, communal open space etc (reason no. 2). Neither reason refers specifically to the density of the scheme. Notwithstanding each proposal is considered on its merits and, as such, when considering density, limited relevance can be drawn from this particular proposal, in my view. It is further stated that higher densities have only been granted once in 2021, at 42a Parkgate Street, which was for a 30 storey building in the city centre. Again, I am of the view that drawing

reference to schemes of higher or lower densities is of limited value to an assessment of this current scheme, given that each scheme is considered on its own merits, and the acceptability or otherwise of a particular density, is based on site and development specific factors, such as location, and the standard of design proposed, and impacts on surrounding amenity.

10.2.32. It is my view, that having regard to the detailed discussion above, a higher density, such as that proposed here, is supported, in principle, by National and Regional Policy, Relevant Section 28 Guidelines and, in principle, is supported by the Development Plan, subject to the proposal meeting certain criteria including the need to provide high quality development and the protection of surrounding residential amenity

10.3. Mix of Uses/Neighbourhood Centre Designation

10.3.1. The Planning Authority have not raised any concerns in relation to the balance of uses that are provided. As noted above, observer submissions have questioned the need for additional retail and state that additional co-working space should be provided.

10.3.2. Policy RET 6 'Neighbourhood Centres' of the Development Plan refers to the need to provide an appropriate mix, range and type of uses. ' It is further set out that the function of Neighbourhood Centres is to provide a range of convenient and easily accessible retail outlets and services within walking distance for the local catchment population. It is set out, in the supporting text, that introduction of residential and high level of commercial office activity could sit quite comfortably in many neighbourhood centre locations without detriment to local amenity. Policy RET9: Non-Retail uses seeks to control the provision of non-retail uses at ground floor level in various locations with the county, include within the shopping parades of mixed-use neighbourhood centres. Section 8.2.6 'Retail Development' of the Development Plan states that Neighbourhood Centres are intended to cater for the daily shopping and service needs of the immediately surrounding neighbourhood and will consequently be generally small in scale. Table 3.2.1 sets out that, in established neighbourhood centres (which this site is) the mixed-use potential of such centres will be promoted, subject to the protection of local amenities, with limited incremental growth in retail floorspace in response to population levels.

- 10.3.3. In relation to the non-residential uses proposed, the applicants propose the provision a retail unit (290 sq. m. in area) and co-working office space (247 sq. m in area). The retail unit fronts onto the Old Dun Leary Road, and partially fronts onto Cumberland Street. The office element is located with the retained Yellow Brick House to the south of the site.
- 10.3.4. In relation to the balance of uses proposed, I note that the policies and objectives of the Development Plan do not specify a particular quantum of non-residential uses that should be provided within neighbourhood centre sites. The residential element of the proposal, in terms of quantum of floorspace is by far the largest element (8253 sq. m of residential floorspace is proposed). That is not an issue, in and of itself, given the need to develop such sites efficiently, and given the urgent need to deliver housing. Much of the Old Dun Leary Road frontage will be in active use save for the entrance/exit to the development. I am of the view that the non-residential provision will be in line with that envisaged within such neighbourhood centres and will provide, in part, for the daily retail and service needs of the immediate surrounding areas. The development is also in line with the 'Urban Villages' concept (Policy RE15 of the Development Plan refers), in that it provides retail and services within walking distance of neighbouring residential areas.
- 10.3.5. In terms of the contribution to the public realm and provision of an active frontage, as noted, the ground floor retail unit provides animation and an active frontage. I note the current site is for the most part vacant, and makes little contribution to the public realm, save for the Dub Laoghaire House, the contribution of which to the public realm and character of the area I have discussed below in Section 10.5 The retail unit provides animation and activity as does in part the co-office use. In terms of public realm improvements, the proposed development includes the widening of footpaths on either side of Cumberland Street, providing more attractive and safer pedestrian facilities. As such an active frontage is maintained much of the perimeter neighbourhood centre site, in line with Policy RET 9 of the Development Plan.

Conclusion

- 10.3.6. In conclusion, I am satisfied that the proposed uses provided are in line with the aims and objectives of the Development Plan, as relates to Neighbourhood Centres. The proposed retail use and co-working office use will provide an appropriate range of shops and services within walking distance of surrounding residential uses and will

be set within a much improved urban environment, relative to the existing nature of the site.

10.4. Impacts on the Proposed Protected Structure

- 10.4.1. The proposed development includes significant interventions to DunLeary House (also referred to as Yellow Brick House). At the time of writing, this is a Proposed Protected Structure under the Draft Dun Laoghaire Development Plan 2022-2028. At the time of writing this report, this draft Plan has been adopted by Elected Members on the 10th March 2022 and comes into effect 6 weeks after this date (21st April 2021). In line with Part IV of the Planning and Development Act 2000 (as amended), it is then afforded much same protection as a Protected Structure (save for limited processes relating to Section 57 declarations and local authority acquisition under Section 71 of the Planning and Development Act 2000, as amended). Where a structure is protected, the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their interiors) and all fixtures and features which form part of the interior or exterior of all these structures.
- 10.4.2. In terms of the works proposed to the proposed Protected Structure building, it is proposed to remove essentially all of the original and non-original fabric internally. Externally, the entire roof including the chimneys, a portion of the northern façade (which is currently obscured by the aforementioned 20th century addition) is proposed to be removed, as is the entirety of the eastern elevation (Dwgs. TED19-MOLA-ZZ-DR-A-XX-190 – 196 refer). It proposed to retain and reinstate the brick southern and western facades, and to partially reinstate the rendered northern façade and its bay window. Works to same will include repointing and repair to the brickwork and granite fabric, with the installation of timber sash windows to the facades. An access point on Dunleary Hill is proposed to be reinstated. The new floorplates will be at the same level as the original floorplates and will accommodate co-working office spaces at Levels 01G, 02G and Level 3. 3 no. additional floors of BTR accommodation are proposed above the existing retained facades.
- 10.4.3. Chapter 6 of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) (hereinafter referred to as the Heritage Protection Guidelines) sets out guidance as relates to works to Protected Structures and Proposed Protected Structures, and I have had regard to same. In line with the Guidelines, An

Architectural Heritage Impact Assessment (entitled 'Report on the Architectural/Historic Significance of Dunleary House, Dunleary Hill and Cumberland Street, Dun Laoghaire, Co. Dublin') has been submitted, and I have considered this report in detail below. The Heritage Protection Guidelines notes that the demolition of a protected structure, or of elements which contribute to its special interest, may only be permitted in exceptional circumstances. I note it is not proposed to demolish, or remove the structure in its entirety, with the western, southern and part northern façades retained. It is further stated that it will often be necessary to permit appropriate new extensions to protected structures in order to make them fit for modern living and to keep them in viable economic use and such extensions should complement the original structure in terms of scale, materials and detailed design. Generally, it is stated that the best way to prolong the life of a protected structure is to keep it in active use, ideally in its original use. Where this is not possible, there is a need for flexibility in relation to appropriate, alternative uses for a structure. Where partial demolition of a protected structure is proposed, the onus should be on the applicant to make a case that the part –whether or not it is original to the structure – does not contribute to the special interest of the whole, or that the demolition is essential to the proposed development and will allow for the proper conservation of the whole structure.

10.4.4. The Guidelines also note that façade retention, or the demolition of the substantive fabric of a protected structure behind the principal elevation, is rarely an acceptable compromise, as only in exceptional cases would the full special interest of the structure be retained. Such cases may occur if the building had previously been redeveloped behind the façade, in which event proposals for new redevelopment behind the façade could be favourably assessed, subject to receiving adequate assurances on how the historic fabric would be protected during the works. Any such permitted redevelopment should relate floor levels and room sizes to the fenestration of the façade.

10.4.5. In relation to local policies, I note that Specific Local Objective 153 of the Development Plan relates to the site and states that 'Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated'. As regards Protected Structures generally, Section 6.1.3 of the Development Plan relates to Architectural Heritage. Policy AR1 'Record of Protected Structures' seeks to inter alia protect structures included on the RPS from any works that would negatively impact

on their special character and appearance, to ensure that proposals have regard to the Architectural Heritage Protection Guidelines (2011) and to ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure. Policy AR2 relates to the required documents to be submitted with any applications relating to Protected Structures.

- 10.4.6. The Planning Authority strongly object to the proposed works to the proposed Protected Structure and have made reference to the contents of the Conservation Officer's report which sets out the concerns in relation to same. In summary, the Conservation Officer states that the submitted photographs show that the interior retains many architectural features at Ground and First Floor levels. It is further stated that as a result of such a significant amount of fabric removal, the proposal amounts to not much more than façade retention, contrary to good conservation practice and contrary Architectural Heritage Guidelines. It is set out that it is feasible that more of the original fabric could have been retained and repurposed in a more sympathetic manner. Furthermore it is stated that the works will unduly compromise the integrity and architectural character of the proposed protected structure and that the removal of the roof and addition of 3 new floors above is at odds with Development Plan policy and contrary to the Architectural Heritage Guidelines with the new build elements having an overpowering and dominating impact on the original structure. Reference is also made to missing appendices (Appendices 1 to 6) of the Architectural Heritage Impact Assessment and it is stated that this missing information precludes a full assessment of the proposals. The Planning Authority's Recommended Reason for Refusal No. 4 refers to the impact on the proposed Protected Structure and states that the proposal is contrary to Specific Local Objective 153.
- 10.4.7. An Taisce have stated that the proposed height, scale and massing are inappropriate for the location and the proposal would have a significant adverse impact on the character of Dunleary House. It is noted that this structure is the sole remaining Victorian yellow brick structure of its kind in Dun Laoghaire. It is also set out that the proposed addition would dominate the historic building. It is stated that the proposal would be contrary to SLO 153.
- 10.4.8. Observer submissions echo many of the concerns raised by the Planning Authority and the impacts on the proposed Protected Structure generally are raised as a concern. It is also set out that there is a lack of space around the proposed Protected

Structure. It is further stated that Dunleary House is an important landmark building and is of architectural, social and industrial significance with a high degree of survival of the original character and structure. It is contended that the proposed upper floors over should be omitted and that the brick and granite boundary wall tops and iron work should be retained and restored.

- 10.4.9. The application is accompanied by a report entitled 'Report on the Architectural/Historic Significance of Dunleary House, Dunleary Hill and Cumberland Street, Dun Laoghaire, Co. Dublin'. This sets out an assessment of the significance of the building and sets out in detail the proposed interventions to the building. It is noted the building was constructed in c1870-80 and was attached to the adjoining industrial site. A modern extension was constructed to the north façade at a later time. The report sets out that a large number of internal alterations have taken place within the building, including the removal of walls and the loss of the main staircase and layout internally. The report concludes that the building has limited architectural significance in making a minor contribution to the streetscape on the corner of Cumberland Street and Longford Terrace/Dunleary Hill. The use of brick and granite on the south and west façades are in keeping with the character of the area. It is noted the all of the windows are uPVC replacements which detract from the character of the area, and that the elevations to the north and east have been significantly altered with the construction of the large modern extension. Along with the internal alternations as noted above, it is stated that the building lacks any ornament of note with unremarkable, cast and mass-produced decorative elements visible. The building is considered to have some historical significance due to its association with the Coal Merchants that existed adjacent to the site. In terms of those elements within the structure to be demolished the report considers the impact of this demolition and notes that such demolition will not result in any loss of architectural or other significance. The features that are of significance, such as the timber surroundings in some of the rooms and fireplaces of note, will be salvaged and/or reinstated. In terms of the impacts of the proposed extensions to the building, reference is made to comparable developments in which Protected Structures have been redeveloped in a similar manner, including at 82 North Wall Quay, and 10-12 Hanover Quay, and in both of these cases the brick and masonry outer walls of the Protected Structures were retained in-situ, with new modern structures constructed within these outer walls and rising through the roofscape. It is stated that these

buildings were of far greater architectural significance than the subject building with far higher quality of masonry and brickwork. The report notes that in the subject development, the cappings to the original eaves and ridges of the building will be retained, clearly illustrating the original form of the roof. I note that the Appendices 1-6 are referred to although do not appear to be attached to the report. These are as follows:

- 1. Historic Maps 2. Key plans 3. External Photographs 4. Internal Photographs 5. Outline Conservation Specifications 6. CVs

10.4.10. In relation to same, I note no Historic Maps are included in the report. In relation to the Key Plans, Internal and External Photographs, I note these are not included in the report itself but are included on Drawings TED19MOLA-ZZ-DR-A-XX-170 to 178 inclusive, and as such cross-referencing can be made to these drawings when considering the contents of the report. Appendices 5 and 6 (Outline Conservation Specifications and CVs) are not included in the report and do not appear to be elsewhere in the application documentation. In relation to the Appendix 6 (CVs) these are not included, although I note the report has been completed by David Slattery Architect and Historic Buildings Consultant, who is a member of the Royal Institute of the Architects of Ireland (RIAI). I am satisfied therefore that the report has been authored by a suitably qualified practitioner. I am also satisfied that there is sufficient information on file to carry out an assessment of the impacts of the works on Dunleary House and I am not of the view that the omission of Appendices 1, 5 and 6 represents a critical omission, and do not preclude the Board coming to a conclusion on the acceptability, or otherwise, of the scheme.

10.4.11. In terms of the works proposed to Dunleary House, I noted that as well as the works to the original house itself, the later 20th Century addition to the building is proposed to be removed in its entirety and no party has voiced an objection to same, and I am also of the opinion that its retention is not warranted. In relation to the merits of the remaining proposed works, I am share the view of the Planning Authority that the proposed works to Dunleary House essentially amount to partial façade retention and I refer in particular to the demolition drawings where significant amount of original fabric is shown to be removed. It is stated that the interior of the building has been significantly altered with the removal of the original staircase to accommodate the original extension. I accept that there has been significant alterations to the building, although I do note that many, but not all, of the room layouts appear to be in

their original form and constitute 'original fabric' as per the submitted drawings, with some features of architectural interest within some of these rooms, which it is proposed to salvage. However, with the removal of the original staircase the only way to access the upper floors of the house now is via the modern staircase within the later extension.

10.4.12. As per the Heritage Protection Guidelines, it is noted that such façade retention is rarely acceptable in conservation terms, and is generally only acceptable where the building has previously been redeveloped behind the façade. While there has been works of significance carried out internally to Dun Leary House, most notably the removal of the staircase, and the later addition to the building, I am not of the view that it has been 'redeveloped' behind the facades, with many of the original rooms remaining intact. I share the view of the Conservation Officer that there appears to be scope to revisit the proposals, with a view to retaining a larger proportion of the original fabric, or indeed reinstating some of the original features of the building. I accept that the existing facades warrant refurbishment, and the PVC windows now installed detract from the character of the building, and the proposed development seeks in part to address these issues, with reinstatement of some features including the bay window to the northern elevation and the access point on the southern elevation. However I am of the view that further investigation into retaining a far greater proportion of the original fabric is warranted, in light of the fact that the building is now a proposed Protected Structure. I note that the original use of the structure is residential, and to my mind, there is greater scope for at least a consideration of reinstating that use within the building envelope, utilising the original floor plans. If this has been explored by the applicants, and has been ruled out, information on same should have been provided within the application documentation. There is no objection to the principle of the proposed co-working office use however, but it may be the case that the need for an open-plan layout associated with this use has necessitated a greater loss of original fabric than otherwise would have been the case.

10.4.13. In relation to the extensions to the proposed Protected Structure, I also share the concerns of the Planning Authority and of observers in relation to same, and I am not satisfied that the scale of the three storey extension to same is appropriate. I refer specifically to the Architectural Heritage Protection Guidance which notes 'extensions should complement the original structure in terms of scale, materials and

detailed design'. The proposed extensions essentially involve the removal of the entire roof from, save for very limited elements remaining, and the introduction of extensions that overwhelm the existing structure with little or no setbacks proposed. I have considered the examples of such extensions cited by the applicants, namely those in the Dublin Docklands, but I am of the view that the context of these extensions are fundamentally different, with the examples being industrial warehouses of significant scale, which to my mind can accommodate larger extensions without the character of the original building being lost. The extensions cited by the applicants with the Architectural Heritage Impact Assessment appear to either have significant setbacks (in the case of the 82 North Wall Quay building) or retain a significant proportion of the original roof form (in the case of 10-12 Hanover Quay). In this instance none of those features are evident, and I am of the view that much of the character of the proposed Protected Structure is lost and the building is dominated by both the extensions proposed.

10.4.14. I have some concern also in relation to the lack of detailed assessment as relates to the relationship of the building to the other elements of the site, namely the existing shed structure on the site. It is stated within the Architectural Heritage Assessment report that this shed does not fall within the curtilage of the proposed Protected Structure. Given the historical relationship of Dunleary House, with the adjoining coal merchant site, as outlined in the Architectural Heritage Assessment, I am of the view that further evidence should be provided in relation to the extent of the current curtilage of the site, and additional information should be provided as to the industrial heritage significance of the existing shed structure on the site, with additional justification provided for the demolition of same. I do note that the Historical Mapping associated referred to in the applicant's conservation report is not included and these may have provided more information in relation to same.

10.4.15. I am aware the most beneficial arrangement for Protected Structures and proposed Protected Structures, is to bring them back into appropriate active use and this serves to limit the risk of such structures falling into disrepair. However, such proposals to reuse and redevelop such structures are required to adhere to guidance as set out in the Architectural Heritage Protection Guidelines and in this instance I am not of the view that this is the case.

10.4.16. The need for an appropriate refurbishment of Dunleary House is supported by Specific Local Objective Specific Local Objective 153 of the Development Plan

relates to the site and states that 'Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated'. To my mind this seeks the appropriate renovation of the building, rather than façade retention only, as is essentially proposed in this instance. The objective also refers to the retention of the boundary. It is proposed to retain the original boundary to the house, which addresses the corner of DunLeary Hill and Cumberland Street. Notwithstanding, given the extensive removal of the original fabric of the structure, including its roof and much of its interior, I am also of the view that the proposal in its current form does not comply with this objective.

10.4.17. In conclusion then, having regard to the extensive works proposed to Dunleary House, a proposed Protected Structure, including the extensive removal of original fabric internally and the removal of the roof form, I am of the view that the proposals essentially involve partial façade retention. I am not of the view that the existing structure has been redeveloped internally to such an extent so as to justify partially façade retention only. Furthermore, it is considered that the three storey roof extension to the proposed Protected Structure would appear as a dominant and overbearing addition to the building, with subsequent negative impacts on the character and appearance of the structure. I am also of the view that the proposed works to Dunleary House do not constitute renovation of the of the building, as required by Specific Local Objective 153 of the Dun Laoghaire-Rathdown Development Plan 2016-2022. As such the proposed development is contrary to guidance set out in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011) and is contrary to Specific Local Objective 153 of the Dun Laoghaire-Rathdown Development Plan 2016-2022. I have recommended refusal on this basis and I refer the Board to Sections 13 and 14 of this report.

10.5. Design including Heights and Layout/Visual Impact

- 10.5.1. In relation to height, the proposed heights are range from 6 storeys, with setbacks at the 4th and 5th storey, fronting onto Dun Leary Hill, to 5 and 8 storeys (with setbacks at the 7th storey) fronting onto Old Dun Leary Road.
- 10.5.2. The Planning Authority have stated that, in principle, the site can absorb additional height, subject to a carefully considered architectural response. However, in relation to this current proposal, it is stated that generally, by reason of its overall height and location, taken in conjunction with the overall massing, and form of the proposed

apartment blocks, would be visually dominant within the existing streetscape, with impacts on the character and visual amenity of the area. In general it is set out that, aside from the accessibility of the site, the proposal does not comply with the criteria as set out in Section 3.2 of the Building Height Guidelines. It is also set out that the proposal does not meet the criteria as set out in the Development Plan, including that set out in the Building Height Strategy and the Urban Framework Plan for the area. The Planning Authority's Recommended Reason for Refusal No. 1 refers to *inter alia* the scale height and massing of the proposal.

- 10.5.3. Observer submissions raise general concerns in relation to the height, scale and massing of the proposal, and it is stated that the proposal is visually dominant and unsympathetic to its context. As per the comments of the Planning Authority, it is stated that the proposal does not meet the criteria as set out in the Building Height Guidelines. Impacts on the coastal zone, on nearby ACA's and Protected Structures, and on the character of the area are raised as concerns. A number of observers state that they are not in agreement with the conclusions of the landscape and visual impact assessment. It is also set out that the drawings as submitted by the applicant that claim to show previously granted permissions do not reflect what was in fact granted permission, as the height was reduced by the Board by way of condition.
- 10.5.4. In relation to national policy on height, the National Planning Framework supports increases in densities generally, facilitated in part by increased building heights. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height, such as that set out here, is supported by the NPF therefore, subject to compliance with the relevant performance criteria.
- 10.5.5. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018). Within this document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers). In reference to the relationship between density and height, it is acknowledged that, while achieving higher density does not imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 refers). It is

further stated that such increases in density and height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). The Height Guidelines also note that Planning Authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexible or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework. It is also noted that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes.

10.5.6. In relation to local policy on heights, the Dun Laoghaire-Rathdown Development Plan 2016-2022 sets out policy on Building Height under Policy UD6: Building Height Strategy, which states that it is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County, which is set out in Appendix 9 of the Development Plan. Appendix 9 details the Building Height Strategy. Section 4.8 focuses on residual suburban areas not already included within boundaries of the cumulative areas of control. The site is located within the catchment of the Dun Laoghaire Urban Framework Plan and as such the site lies within an area of cumulative control, and the 'upward' and 'downward' modifiers as set out in Section 4.8 are not applicable in this instance, rather it is the policies and objectives as set out in Section 3.2 'Dun Laoghaire' of the Height Strategy and as set out in the Dun Laoghaire Urban Framework Plan that are applicable in this instance. This would appear to be the approach taken by the Planning Authority in its assessment of the current proposal.

10.5.7. Section 3.2 of the Height Strategy refers to Dun Laoghaire, and it is set out that the traditional building height is 2-4 storeys, with some post-war developments of about 4-5 storeys. Recent schemes extend to a maximum of 7 storeys. Reference is made to the Dun Laoghaire Urban Structure plan (Appendix 12 of the Development Plan) and is set out that this document will help guide development for the area, in advance of a formal Local Area Plan being prepared for the area. Appendix 12 of the Development Plan is the Dun Laoghaire Urban Framework Plan identifies this current site as an opportunity site and Section 3.2.3 of the Framework Plan includes a consideration of this current site and it is stated:

This strategy also anticipates the sensitive redevelopment of the adjacent Tedcastle site. The greatest potential for development will be to the northern part of the site.

The effects of overshadowing on Dunleary Road must, however, be carefully considered in any design. Commercial development on this site should be concentrated on Dunleary Road and should create an appropriate streetscape and frontage that engages with and enliven the streets that border the site. More residential uses should be prioritised along the Dunleary Hill frontage and retail activity along this edge is not considered appropriate.

10.5.8. The Framework Plan graphically sets how the site is envisaged to be developed out a number of 'Ideas for Tedcastle Site' including:

- Set building line to create edge while allowing clear vision lines of traffic (along Old Dunleary Road)
- Terraced buildings & open space stepping down hill
- Seek to create active frontages
- Increase width of footpath and introduce tree planting and kerbside parking (to the north and south of the site)
- Higher building at corner access from street corner
- New traffic calmed area

10.5.9. Section 3 of the Urban Framework Plan states the following:

When considering development proposals in Dún Laoghaire, the Planning Authority will have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas and the East and West Piers of the Harbour.

The character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings. A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier. Underpinning any new development/redevelopment in Dún Laoghaire should be an objective of increasing the residential population of the Town.

Dún Laoghaire is designated as a Major Town Centre. Building heights within the area are typically 2-3 storeys, with some recent and post-war developments of about 4-5 storeys extending to a maximum of 7 storeys on some prominent sites. Only the spires of St. Michael's and Mariners' Church (the Maritime Museum), the tower of the

County Hall and the 'prow' of the new dlr Lexlcon rise above the overall urban skyline. It is an objective that this hierarchical relationship between established landmark buildings and new infill development be preserved and maintained. New development should strive to be contextual, seek to re-establish streetscapes, be appropriately scaled and be rich in materials and details consistent with the existing typology of the Town Centre.

10.5.10. Section 6 of the Urban Framework Plan sets out Specific Local Objectives for the area, which includes Specific Local Objective 153 SLO 153: *'That Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated'*.

10.5.11. There are no specific height limits set out for this site either in the Building Height Strategy or the Urban Framework Plan (see also discussion in Section 10.14 'Material Contravention). I am not of the view that the building can be defined as a 'Landmark' building, noting the reference to same in Section 6 of the Building Height Strategy. The Planning Authority are not of the view the proposal is a 'Landmark Building'. However proposals such as this one are required to have regard to the general development strategies set out in both documents (the Urban Framework Plan and the Building Height Strategy) and I have considered general compliance, or otherwise, in my assessment below.

10.5.12. Having regard to the general strategy for height on this site, as set out in the Development Plan, namely the Building Height Strategy and the Urban Framework Plan I note the following. In particular I note Section 3.2 'Dun Laoghaire' of the Building Height Strategy which states the hierarchical relationship between long established landmark buildings and new infill development be preserved and maintained. From the East Pier (Views 1, 2, 6 and 7 refer) I am not of the opinion that the development will have a significant impact on the skyline when viewed from these vantage points. From the West Pier (Views 4 and 5 refer) I do consider that there is will be some minor change to the skyline with the proposal visible from these viewpoints. However the development appears as an extension to the existing urban block of Clearwater Cove, and I am not of the opinion that the proposal is of such height as to impact on the hierarchical relationship of the taller church steeples, with the development having a very limited impact on the existing church steeples, when viewed from the East and West Piers. As such I am not of the view that the proposal would be at odds for the general strategy for this site, as set out in the Building Height Strategy and the Urban Framework Plan.

10.5.13. I note the prevailing height in the area, with the development to the east of the site (Clearwater Cove) a maximum of 7 storeys and the De Veci development to the west a maximum of six storeys in height although there is only small corner element that is this height, with the remainder of the development 4 and 5 storeys in height. However, I am of the view that, given its designation as a neighbourhood centre, and given the need to develop these sites efficiently, I am of the view that a development of scale and height that is greater than the surrounding development is, in principle, appropriate, and is supported by national policy and relevant Section 28 Guidelines although there does need to be an appropriate transition in height, as set out within Criteria 3.2 of the Building Height Guidelines. This is also set out in Section 8.3.2 'Transitional Zonal Areas' of the Development Plan, which states that particular attention must be paid to the use, scale and density of development proposals in order to protect the amenity of surrounding residential properties. In terms of transition in heights, the height steps up from 5 no. storeys adjacent to Clearwater Cove to 8 no. storeys for much of the northern frontage, stepping down to 7 no. storeys on the corner of Old Dunleary Road and Cumberland Street. The lower scale De Veci development is sufficiently set back from the proposed site so as to mitigate any perception of visual dominance or overbearing impacts and I am satisfied that the transition in heights are appropriate here.

10.5.14. In relation to Section 28 Guidance, SPPR 3 of the Building Height Guidelines (2018) states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. As noted above, in this instance, there are no specific height restrictions that pertain to this site. However, the buildings proposed are higher than the immediate neighbouring buildings (although not significantly greater than the immediately adjoining Clearwater Cove development). As such, I am of the view that the guidelines provide an appropriate framework within which to consider the issue of design, building height and visual impact generally.

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

City Scale

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

- 10.5.16. The first criterion relates to the accessibility of the site by public transport and refers to the need for a high capacity, frequent public transport service. As noted above, and as acknowledged by the Planning Authority, the site is served by the DART line, which is a high capacity, frequent service, providing links to other modes of public transport, and as such complies with this criteria. (see Section 10.2 for detailed discussion of the accessibility of the site).

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

- 10.5.17. In terms of the character of the area, while the majority of the site area is vacant, the southern portion of the site is defined by Dunleary House, a proposed Protected Structure, which provides a visual landmark for the area and is of some architectural social, industrial and historical interest (see discussion in Section 10.4 above). The surrounding area is comprised of mix of land uses. To the north of the site is the N31 (Old Dun Leary Road) with a 2/3 storey terrace opposite which has a mix of residential and commercial uses. The Circle K filling station is also to the north of the site. The DART railway line lies beyond this. To the west of the site is Cumberland Street with De Vesci House opposite, which is 3 to 6 storey apartment building. The 6 storey element is limited to the corner of the site, and the change in levels from Cumberland Street to Old Dunleary Road, results in the lower floor of De Vesci House sitting below ground level when viewed from Cumberland Street. To the south is Dun Leary Hill, with De Vesci Gardens beyond, a private amenity space. To the east of the site is the Clearwater Cover Apartment Block, a 6/7 storey apartment block, fronting onto the Old Dun Leary Road, with a car park and communal amenity space to the rear. As such, it can be seen then that the character of the area is mixed, both in terms of architecture and in terms of land uses. In relation to built form, the site essentially forms the western extent of Dun Laoghaire Town (as

defined by the Dun Laoghaire Urban Framework Plan) and the built form is made up of modern apartment buildings, traditional terraces and shopfronts and, further to the east, commercial and educational buildings and associated with the town centre. Given this mixed character, I am of the view there is scope to introduce a modern apartment building typology on the site which would be in keeping with the mixed character of the area.

10.5.18. In terms of architectural sensitivity, as noted Dunleary House is a proposed Protected Structure. Specific Local Objective 153 relates to the site and states that 'Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated'. I have considered in detail the impact of the proposal on the proposed Protected Structure in Section 10.4 above and refer the Board to same. There is also a visual amenity consideration to the proposed works to the proposed Protected Structure, and in relation to same I note the following. The application is accompanied by a Landscape & Visual Impact Appraisal and a Verified Views/Montages/GGI document and I am satisfied the report has been prepared by a suitably qualified practitioner. A total of 22 viewpoints are considered. In relation to the existing site and building on same, the LVIA sets out that, from a landscape and visual perspective, Dunleary House represents a local landmark on the corner of Cumberland Street and the lower end of Dun Leary Hill and represents a local boundary at the eastern end of Monkstown and the western end of Dun Laoghaire. In relation to views from facing east from Dun Leary Hill, towards the south-western corner of the site and the proposed Protected Structure (View No. 16 refers), I do not necessarily agree with the conclusions of the LVIA, which concludes that the visual effects of same will be 'significant and neutral'. As set out in detail in Section 10.4 of this report, I am of the view that the extensions to this structure dominate the character and appearance of the proposed Protected Structure, which is a particularly sensitive element within the landscape, and which is acknowledged in the LVIA as being a noticeable feature on this site with a local significance as a landmark.

10.5.19. In relation to visual effects from other viewpoints towards the site, no negative visual effects were identified in the LVIA and I have the following comments in relation to same. The site is located at a key urban junction and, in principle, can accommodate additional height than surrounding developments, as acknowledged by the Planning Authority. I am of the view that the visual impacts will be as described in the LVIA for

all of the views towards the northern frontage of the site, in relation to how the proposal addresses Old Dun Leary Road and the corner of Old Dun Leary Road and Cumberland Street. In particular views from the west along Old Dun Leary Road indicate that the proposal addresses corner of the site well, and the scale is appropriate, with the proposal having the appearance of a seven storey building from these viewpoints, with the top setback floor not visible from shorter viewpoints to the west of the site. From some longer viewpoints to the west (View No. 20 from Longford Terrace and the ACA) from viewpoints to the east (Views No. 8 – R119 and View No 18 – Old Dun Leary Road) the top floor is visible. However, this floor has a significant setback from the eastern, southern and western elevations, and I am not of the view that it presents an overbearing or dominant feature. From longer views from the West Pier (View 5 refers) the upper floor is visible, however, the scale is not overbearing and is appropriate for this corner site, identified as an Opportunity Site within the Urban Framework Plan. In conclusion therefore, on the issue of visual amenity, I am generally satisfied that from the majority of viewpoints, as discussed above, the impacts on visual amenity will be as per described in the LVIA. However, I am of the view that from the limited number of viewpoints towards the south-western corner of the site, and the proposed Protected Structure, the three-storey extension to the proposed Protected Structure would result in negative impacts on visual amenity, resulting from the dominant and overbearing appearance on this architecturally sensitive building.

10.5.20. In terms of other architectural sensitivities/designations, I note the site does not lie within an Architectural Conservation Area. However to the south of the site lies a Candidate Architectural Conservation Area, which incorporates De Vesci Terrace & Gardens, Willowbank, Vesey Place & Gardens. Approximately 50m to the west of the site lies Monkstown Architectural Conservation Area. There are a significant number of Protected Structures in the vicinity of the site, the nearest of which are located at Longford Place, located approximately 50m to the west of the site at the boundary of the Monkstown Architectural Conservation Area. No's 1-10 De Vesci Terrace are protected Structures and are located approximately 115m to the south-east of the site. There are numerous other Protected Structures in the wider area also. In terms of impacts on same, I am not of the view that views to and from the Monkstown Architectural Conservation Area are negatively impacted upon (see discussion on visual impact below) and there are not significant views towards the

site afforded from the Candidate Architectural Conservation Area, which incorporates De Vesci Terrace & Gardens, Willowbank, Vesey Place & Gardens. As such I am satisfied that there will be no significant negative impacts on setting the surrounding ACA and candidate ACA.

10.5.21. In terms of Protected Views, Map No. 3 of the Development Plan sets out same. This indicates a Protected View facing north down De Vesci Terrace. This view is unaffected by the proposal. There are a number of Protected Views facing north towards the Coast along Old Dun Leary Road, but these are unaffected by the proposal, which lies to the south of same. I have also considered the cultural context of the site, and I am of the view the site does have some social and industrial heritage value by virtue of its former use. However I am not of the view that this should preclude an appropriate redevelopment of the site.

10.5.22. A further criteria set out in Section 3.2 of the Guidelines is the contribution of tall buildings to place-making and the introduction of new streets and public spaces. In relation to same, the proposal is redeveloping for the most part vacant site, although to the south is the proposed Protected Structure which is a building of note. I have considered how the proposal address the streetscape in Section 10.3 above and I refer the Board to same. The nature and limited scale of the site precludes the introduction of new streets and limits the scope for the provision of viable public open space (see also discussion in Section 10.6 below). However, the form of the development is such the proposal succeeds in providing street frontage and building line definition to the boundaries of the site and I am satisfied that the general layout of the proposed development is the appropriate one for the site.

10.5.23. In terms of public realm improvements, the proposed development includes the widening of footpaths on either side of Cumberland Street, and narrowing of the corner radii, providing more attractive and safer pedestrian facilities. Notwithstanding the designation of the site as a neighbourhood centre, there is limited scope in my view to provide significant or viable areas of public realm within the site, notwithstanding that the conceptual development of site as depicted in the Urban Framework Plan does indicate an area of open space/public realm. The Planning Authority has not suggested that areas of public realm or public open space should be provided on the site. The improvements and widening of the footpath and introduction of street planting are in line, however, with the conceptual development

as set out in the Urban Framework Plan, as is the introduction of a clearly defined building line on the Dun Leary Road frontage.

10.5.24. In terms of contribution to the streetscape, including the provision of active frontages, I have considered same in Section 10.3 above and have concluded that sufficient animation to the frontages of the site has been provided, in my view.

10.5.25. Criteria 3.2 sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies. I have considered in detail the mix of uses proposed, which also need to be considered in the context of the site's designation as a neighbourhood centre, in Section 10.3 above. In terms of the mix of residential units provided, the proposal provides the following mix of units:

Apartment Type	Studio	1 bed	2 bed	3+ bed	Total
No. of Apts	34	77	35	n/a	146
As % of Total	23.3%	52.7%	23.9%		100%

10.5.26. The surrounding development as noted above, is a mix of residential typologies, with apartment developments and terraced residential dwellings. There is no suggestion by the Planning Authority that there is an overconcentration of apartment typologies in the area, nor that there is an excessive supply of smaller housing units. The application is accompanied by a report entitled 'Demographic Drivers and Changing Housing Demands in Dublin'. This sets out that, in the Dublin City and Dublin Suburbs, the increase in smaller households, is driving the requirement for smaller units, with population growth driving demand for housing generally. Overall I am satisfied that the proposal contributes positively to the provision of a mix of building dwelling typologies.

10.5.27. At the scale of the site/building, it is expected that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. Where a proposal may not be able to fully meet all the requirements of the

daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.

- 10.5.28. I have set out my assessment of the internal amenity of the proposed units, as results to daylight and sunlight in Section 10.6 below, and I am satisfied that a sufficient standard of daylight would be provided to the units, with BRE targets being achieved. I have considered the issue of overshadowing of proposed amenity spaces in Section 10.6 below.
- 10.5.29. I have considered the issues of surrounding residential amenity, in relation to overshadowing, daylight and sunlight in Section 10.7 below, and I am satisfied that, on balance, there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.
- 10.5.30. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of the micro-climatic effects of the proposed development. In relation to same, the applicants have submitted a wind study which addresses this requirement (see discussion of same in Section 10.6 below). In locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight -lines and /or collision. In relation to same, there is no evidence on file or within any of the submissions received, that the proposed height such that it is likely to give rise to such collisions. In relation to potential impacts on telecommunication channels a report in relation to same (dated 17th November 2021) has been submitted which rules out any material impact on same.

Conclusions on Design including Height and Layout

- 10.5.31. Notwithstanding my fundamental concerns in relation to the impacts on the proposed Protected Structure (which I have addressed in Section 10.4), I am of the view that the overall approach to development on areas of the site set away from the proposed Protected Structure is acceptable, having regard to the overall design, layout and height strategy pursued, and having regard to relevant policies and objectives that are relevant to this site, as set out in Section 28 Guidelines and as set out in the Dun Laoghaire Development Plan 2016-2022. However, it is my view that the strategy pursued for the south-western corner of the site i.e. the approach taken in relation to works to the proposed Protected Structure, is not the most appropriate one, having

regard to the detailed discussion in Section 10.4 of this report and I am of opinion that the application should be refused on this basis.

10.6. Residential Amenities/Residential Standards

- 10.6.1. In relation to Development Standards, I firstly note that the Advisory Note prefacing Chapter 8 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 advises that standards and specifications in respect of Apartment Development- as set out in Section 8.2.3.3. (i), (ii), (v), (vii) and (viii) of the Development Plan Written Statement –have been superseded by Ministerial Guidelines ‘Sustainable Urban Housing – Design Standards for New Apartments’ published by the Department of Environment, Community and Local Government (DoECLG) on 21st December 2015.
- 10.6.2. It is further noted that ‘Specific Planning Policy Requirements’ set out in the Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan.
- 10.6.3. The submission from the Planning Authority raises concerns in relation to the number dual aspect units and also in relation to the classification of some of the units as dual aspect. The Planning Authority is of the opinion that the site lies within a ‘suburban or intermediate’ location and as such state that 50% of the units should be dual aspect units. Concern is also raised in relation to the number of north facing single aspect units. The relatively small size of the apartment units is noted, as is the number of units without a balcony. It is stated that the proposed communal open spaces do not provide an appropriate alternative for the lack of private open space. In general it is stated that the proposal would result in a substandard form of accommodation for future occupants.
- 10.6.4. Observer submissions state that the Communal open space will not be utilised due to local wind effects and it will be overshadowed. It is also stated that there is insufficient private open space and that insufficient compensatory communal open space has been provided. It is also set out that there is insufficient separation distances between blocks. The lack of sufficient dual aspect units is raised as a concern and it is stated the proposal does not meet 70% standard as set out in the CDP. The number of north facing single aspect units is raised as a concern. It is stated that there is an insufficient unit mix with the majority of units will be one and

two beds, which do not address the housing problems in the area. It is stated that there is inadequate play space for children.

- 10.6.5. I have considered the issues raised in the PA submission and in the observer submissions in the relevant sections below.

Daylight and Sunlight to the proposed units

- 10.6.6. The applicants have submitted a 'Daylight Sunlight Report (dated 18th November 2021). This considers daylight provision to the proposed living, kitchen and bedroom areas and sunlight levels to the proposed living room areas. It also considers sunlight levels to the proposed amenity spaces. It also considers daylight and sunlight impacts to existing dwellings (see consideration of same in Section 10.7 below).

Daylight

- 10.6.7. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. Section 1.6 of the BRE 209 Guidelines states that the advice given within the document is not mandatory and the aim of the guidelines is to help, rather than constrain the designer. Of particular note is that, while numerical guidelines are given with the guidance, these should be interpreted flexibility since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers).
- 10.6.8. Furthermore the Urban Design Manual 2009 (which is a companion document for the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authority) states that 'where design standards are to be used (such as the UK document Site Layout Planning for Daylight and Sunlight, published by the BRE), it should be acknowledged that for higher density proposals in urban areas it may not be possible to achieve the specified criteria, and standards may need to be adjusted locally to recognise the need for appropriate heights or street widths.'

- 10.6.9. In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum targets for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. However, Section 5.6 of the BS8206 – Part 2: 2008 Code of Practice for Daylighting states that, where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%.
- 10.6.10. The application is accompanied by a Daylight Sunlight Assessment which considers *inter alia* the daylight achieved to the proposed units. Within this document it is set out that achieving a minimum 2% target in open plan kitchen dining room is challenging, noting the requirements for balconies to be accessed living rooms, impacting on daylight levels to the units on the lower floors. It is also stated that floor to ceiling heights would also need to be increased, impacting on the overall height of the development. The risk of overheating as a result of removal of balconies, increased floor to ceiling heights and extensive glazing is also noted. It is set out that the kitchen area proposed in the units will be used mainly for food preparation with occupants spending much of the time in the living area. Notwithstanding same, it is set out that the higher target of 2% (as opposed to a target of 1.5%) is utilised to calculate the percentage rate of compliance. A selection of rooms, rather than the entirety of the units, are considered within the report and a justification for this approach is set out, with a selection of rooms on the lower levels being analysed in the first instance. If these lower rooms meet BRE targets it is assumed then the rooms above these will also meet the BRE targets with the converse assumed also. The rooms which are selected for analysis are also representative of other rooms on the same level, which have similar orientations, aspect and location on the floor plan. I accept the justification for this approach as set out in the report.

10.6.11. In terms of the results of the analysis, of the 25 no. rooms that are selected for analysis on Level 1, 23 achieve BRE targets. The 2 no. kitchen/living/dining rooms that do not achieve the 2% targets both achieve 1.6%. It is set out within the report that the result is reflective of the location of the units in a corner area combined with the deep floor plan. On Level 2, of the 22 no. rooms analysed, 21 achieve BRE Targets. 1 no. KDL achieves a 1.8% ADF value, which again is due to its location in a corner area combined with a deep floor plan. On level 3, a similar room in a similar location achieves the 2% target.

10.6.12. It is set out that of the 291 rooms within the development, only 3 no. rooms do not achieve the BRE targets, a compliance rate of 98.9%. In relation to same, I accept that the selection of rooms that have been considered are representative of other rooms on the same floors, or upper floors, and as such a complete analysis of every room is not necessary in order to come to the conclusions in the report, and I accept that a compliance rate of 98.9% is reflective of the proposed rooms' performance when assessed against BRE targets for daylight. Where the 3 no. KDLs have not achieved 2%, the value exceeds 1.5% for all rooms, and the shortfall is due to the particular constraints of the room in terms of its location and deep floor plan. The kitchen area will be linked to a well-lit living room and as such is in line with BRE Guidance, as referred to above. In any event, compensatory measures are set out in the report and these include the provision of a courtyard area and roof top terraces, as well as private external spaces provided.

Sunlight

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

10.6.14. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to

determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The report sets out that 46% of the living room windows achieve the recommended APSH targets with 48% achieving the recommended values during the winter months. The shortfall in values is due to projecting balconies, north facing windows and the location of units within the courtyard. It is set out within the report that those north facing units will have views over Dublin Bay which is cited as a compensating factor. Those units within the courtyard will have views over the courtyard area. I am of the view that seeking to limit the number of north facing units in this instance is not warranted, or practical, given the extent of the site that faces north along the Old Dun Leary Road, and the somewhat constrained nature of the site which limits options for alternative orientations of the blocks, and having regard to the views over Dublin Bay afforded by the north facing units, which is a significant compensatory factor in my view. I note also the indicative proposals for the site as set out in the Dun Laoghaire Urban Framework Plan which indicates a frontage/building line to the north of the site. In relation to those units facing onto the courtyard, I accept that it is difficult to achieve compliance in such an arrangement. However the courtyard is not entirely closed and is open to the east, which allows a significant level of sunlight penetration from an easterly direction, which is of most benefit to those easterly facing units. I accept that the views into the courtyard are a sufficient compensatory factor for those courtyard facing units not achieving BRE targets for sunlight.

Sunlight to Proposed Amenity Spaces

10.6.15. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The report considers sunlight levels to the proposed communal amenity spaces and it is set out that all of the spaces achieve BRE target. This is demonstrated diagrammatically within the report. It is not necessarily definitive that the lower level communal space on the eastern side of the development achieves the BRE targets and there are no supporting numerical tables to demonstrate compliance. However, if there is a shortfall (and it not definitive that there is) this is likely to be minor and visually it appears that close to 50% of the area achieves at least 2 hrs of sunlight on March 21st. Overall I am satisfied that the proposed amenity areas will receive a sufficient amount of daylight and appear to be broadly compliant with BRE Targets.

Conclusion on Daylight, Sunlight and Overshadowing

10.6.16. I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.

10.6.17. As noted, the report submitted indicates that there are some minor shortfalls in daylight provision, although the overall compliance rate for same is 98%. The report indicates significant shortfall in sunlight provision, with less than half of the units achieving BRE targets for same. Where shortfalls are identified reasons are set out for same, including that the units in question are on a lower floor in a corner location (when considered daylight provision) that balconies are obstructing levels of sunlight, the units are north facing and/or face into a courtyard (when considering sunlight provision). I am satisfied that all of these reasons are reasonable, and given the need to develop sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. This is acknowledged in the Urban Design Manual (2009).

10.6.18. In terms of compensatory design solutions, I note the extensive seaward facing views of those north facing units that do not achieve sunlight targets, and the views into the courtyard of other units which do not achieve said targets. In addition the proposal provides a generous provision of communal amenity space, over and above the minimum requirement (see below), which will achieve good levels of sunlight.

Dual Aspect

10.6.19. Section 8.2.3.3. (ii) of the Development Plan states that 70% Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under

exceptional circumstances. As noted above the Advisory Note prefacing Chapter 8 of the Development Plan states that the 'Specific Planning Policy Requirements' set out in the Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan. The Development Plan makes it explicitly clear therefore any relevant SPPRs will supersede any related standard as set out in Chapter 8 of the Development Plan. As such, as relates to Dual Aspect, the required standards are as set out in SPPR 4 of the Apartment Guidelines.

10.6.20. Specific Planning Policy Requirement 4 (SPPR4) of the aforementioned Apartment Guidelines, states that:

'In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply

(i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate.

(ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

(iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects'.

10.6.21. Notwithstanding the view of the Planning Authority, and of observers, as relates to the characteristics of the site, I am of the view that the site is a central and accessible urban location. It is central in the fact that it is located within the boundaries of the Dun Laoghaire Urban Framework Plan, and is served by a high capacity, frequent public transport service (see discussion in Section 10.2 above). It is therefore accessible. The site characteristics are such that the provision of a block form of apartment development, within which greater quantum of dual aspects can be provided, would not be appropriate, having regard to the need to provide street frontage and building line definition to the boundaries of the site. I am of the view

therefore that the required provision of Dual-Aspect units is in fact a minimum of 33%.

10.6.22. The application documentation sets out that there are 65 no. units that are dual aspect, representing a dual aspect provision of 44.5%. It is set out also that there are 11 no. north facing single aspect units, representing 7.5% of the total number of units. The Design Statement sets out that these units, however, benefit from views towards Dun Laoghaire Harbour and Dublin Bay, and as per Section 3.18 of the Apartment Guidelines *'north-facing single aspect apartments may be considered where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature'*.

10.6.23. The application is accompanied by a report entitled 'Dual Aspect Provision in Residential Development – An Appraisal of Development Management Standards in Ireland'. This considers issues such as cross-ventilation, importance of daylight provision, practical and cost limitations on providing dual aspect units, and in general how dual aspect requirements have been implemented in Ireland to date, including how the Board have considered dual-aspect provision within proposed residential developments. Reference is made to the Urban Design Manual: A best practice guide which states that: 'The requirement to maximise dual aspect units needs to be balanced with the objective of creating a coherent block form. Whilst most homes within the development should dual aspect, single aspect homes could be provided where there is a demonstrable case in terms of benefit to the layout, consideration of unit size and its orientation'

10.6.24. I note the concerns of the Planning Authority and of Observers as relates the quantum of dual aspect units and the nature of some of the dual aspect units. On Levels 1 to 6 the applicants rely on the projecting element fronting on the courtyard (on level 1), fronting onto Old Dun Leary Road and the Courtyard on Levels 2 to 6, and fronting onto the R110 on levels 3 to 5 in order to provide a second aspect to some of the units. I accept that these are not 'standard' dual aspect units i.e. with windows on two different elevations. However, I note there is no definition of dual aspect within the Apartment Guidelines, nor within other guidance. The projecting element provides for an additional amount of floorspace within each of these units, and as such the occupants will benefit from each alternative aspect. The windows provided on the different aspects also benefit from being free of obstruction and as such the occupants of each of these units benefit from this. In terms of cross-

ventilation, the applicants have set out that such units can provide for cross-ventilation, or circulation of air. There are 25 no. such units. I accept that they can be considered dual aspect units and I therefore accept the applicant's assertion that 44.5% of the units are dual aspect. Should the Board not accept that these units are not, in fact, dual aspect, the total dual aspect provision would fall to 40 no units. This would equate to 27% of the units, below the requirements of SPPR 4. The Board is required to apply any specific planning policy requirements (SPPRs) of the guidelines and I am of the view that a provision of a quantum of dual aspect units that is below 33% would necessitate a refusal on this basis.

10.6.25. In relation to the number of north-facing dual aspect units, the applicants have set out that there are 11 such units, whereas the Planning Authority and observers have stated that there are in fact 16 no. such units. The Development Plan states the north facing single aspect unit should only be provided in exceptional circumstances, although it is not set out what constitutes 'exceptional circumstances'.

10.6.26. The applicants have stated that the north facing units that have been provided have a favourable aspect, with larger areas of glazing provided. As per the discussion above, I am of the view that seeking to reduce the number of north facing units in this instance is not warranted, or practical, given the extent of the site that faces north along the Old Dun Leary Road, and the somewhat constrained nature of the site which limits options for alternative orientations of the units, and having regard to the views over Dublin Bay afforded by the north facing units, which is a significant compensatory factor in my view. I note also the indicative proposals for the site as set out in the Dun Laoghaire Urban Framework Plan which indicates a frontage/building line to the north of the site. I am of the view that the constraints, compensatory factors and policy direction as described above could be construed as 'exceptional circumstances' and as such would allow for the provision of north facing units, and would still be in line with the Development Plan, having regard to the provisions of Section 8.2.3.3 (ii) of the Plan.

10.6.27. The Apartment Guidelines, while seeking to minimise the number of north facing single aspect units, accept that they can be provided when the aspect of same is over a significant amenity such as a waterbody, which in this instance is over Dun Laoghaire Harbour and Dublin Bay. It is further stated that the daylighting and orientation of living spaces is the most important objective, and in this instance 98% of the units achieve BRE standards for daylighting.

10.6.28. In relation to material contravention considerations, to my mind there are two distinct issues, one is the percentage of dual aspect units, and secondly, the number of north facing single aspect units. In relation to the percentage of dual aspect units, as noted above SPPR 4 takes precedence of the provisions of the Development Plan, as per the Advisory Note prefacing Chapter 8 of the Development Plan and I am of the view the proposal complies with the requirements of same. In relation to the provision of north facing units, I am of the view, as discussed above, that exceptional circumstances apply to this particular site, and in line with the provisions of Section 8.2.3.3(ii) of the plan, such units can then be provided. I am not of the view therefore the proposal represents a material contravention of the plan as relates to Dual Aspect provision.

Communal Open Space/Public Open Space

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

10.6.30. I note that Section 8.2.8.2 of the Development Plan sets out a requirement for public/communal open space of 15 sq.m to 20 sq. m. per person, with a default minimum of 10% of the overall site area. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq. m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site. The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space.

10.6.31. Communal open space is provided in the form of a landscaped courtyard including a play area (c.482 m²) and landscaped roof terraces and external areas (c.392m² overall). This includes a communal terrace on level 7 of 350 sq. m. A total of 875 sq.

m. of communal space is provided. In addition to this the proposal includes a roof terrace of 163 sq. m. located at Level 5 that is for the exclusive use of those units without a balcony, which brings the total communal space provided to 1036 sq. m. This equates to 18% of the site area (total site area 5590 sq. m).

10.6.32. Setting the 15 sq. to 20 sq. m standard, the communal/public open space required would be between 3, 285 sq. m to 4, 380 sq. m. However, this figure generally equates to the between 58.7% and 78.4% of the entire site area (where the site size is noted as 5590 sq m). Provision of this quantum of open space for the proposed development, having regard to the nature of the development and site, would not be in accordance with sustainable development principles, compact growth, etc. Therefore, a legitimate proposal to reduce the quantum of open space, in favour of providing high quality/exceptional standard of open space, the default minimum of 10% of the overall site area would be a more appropriate target, and would equate to 559 sq. m of communal/public open space. The communal open spaces equating to 1036 sq m exceed this target. As such I am satisfied that the proposal complies with the standards for public/communal open space as set out in the Development Plan in terms of quantum.

10.6.33. The Apartment Guidelines set out standards for communal space provide and in this instance there is a total requirement of 762 sq. m overall, with an additional 102 sq. m. required for those units without a balcony, resulting in an overall requirement of 864 sq. m. The proposed provision exceeds these standards.

10.6.34. There is no dedicated public open space provided as part of the application. However, improved public realm in and around the site is proposed in the form of wider footpath provision, street planting and reduced corner radii at the two nearest junctions to the site, and this will be of benefit to both the future occupants of the units and the wider public as a whole.

10.6.35. In conclusion, the quantum of the communal open space is in line with the requirements of the Design Standards for New Apartments (updated December 2020) and the quantum of communal/public open space provided is well in excess of the minimum of 10% of the site area as required by Section 8.2.2 of the Development Plan.

10.6.36. In terms of the quality of this communal space, I am satisfied that it is of a high standard, appropriate for the needs of end users. The spaces will be furnished and

useable for socialising, are well lit and have good access to sunshine, and are not adversely impacted by micro-climate issues around wind etc.

Separation Distances

10.6.37. Section 8.2.3.3(iv) 'Separation between Blocks' of the Development Plan states that the minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height and in taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. It is further set out that, in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In this regard, the development in this instance is not set out in the form of blocks *per se* rather it is one block which provides frontage on the northern, western and southern boundaries of the site. In any case, the window to window distance from the south facing windows facing the courtyard to the north facing courtyard windows is a minimum of 33m greater than the 22m distance cited above.

Private Open Space

10.6.38. As per the Housing Quality Assessment, private amenity space for 130 of the 146 no. units (89% of overall) is provided as a terrace for ground level units (at stepped levels 01 and 02) or balcony or terrace at upper levels and is accessed off the living area and in some cases also off a bedroom.

10.6.39. Section 8.2.8.4 (iv) and Table 8.2.5 of the Development Plan which refers to a requirement of 6 sq. m and 8 sq. m., for 1 and 2 bed units, respectively. It is also set out that In exceptional cases in 'urban centres', for reasons of maintenance of streetscape character, or the preservation of residential amenity of adjoining property, the Planning Authority may accept the provision of communal open space in lieu of private open space.

10.6.40. SPPR 8 (ii) of the Apartment Guidelines states the following:

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 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project

proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity.

- 10.6.41. As such, the above SPPR allows for flexibility in the provision of private amenity space when considering BTR schemes. In this instance the applicant has proposed a specific area of communal terrace space that will be solely for the use of the 16 no. units that do not have a balcony space. It is set out that the 16 no. units would generate a requirement of 102 sq. m. of private open space. The proposed terrace is approximately 163 sq. m. in size and would benefit from sunlight to the south and views over the harbour to the north. Environmental concerns have dictated that the provision of balconies to these 16 no. units would not be appropriate, due to wind and the north facing orientation (as set out in the Housing Quality Assessment). I note also that a total of 875 sq. m. of communal open space has been provided, exceeding the required standards of the Apartment Guidelines, and this would also benefit from an open aspect to the east and easterly sunlight.
- 10.6.42. In relation to support facilities and services provided within the scheme, a gym area and associated ancillary facilities (120 sq. m) is provided on Level 01G and a resident lounge (Sky Lounge) of 97 sq. m provided at Level 07. The Design Statement sets out a total of 468 sq. m. of residential amenities/facilities have been provided. This includes the atrium reception area of 251 sq. m.
- 10.6.43. I am satisfied that sufficient compensatory communal open space and residential amenities have been provided in order to overcome the non-provision of private open space to the 16 no. units as referred to above. I note also that 10 of the 16 no. units exceed the minimum floor area standards and also benefit from views over Dun Laoghaire Harbour and Dublin Bay. As such I am satisfied the proposal is in line with SPPR 8(ii) of the Apartment Guidelines.
- 10.6.44. In relation to any issues of Material Contravention as relates to the provision of Private Open Space (See also Section 10.14 below), the Advisory Note prefacing Chapter 8 of the Development Plan states that the 'Specific Planning Policy Requirements' set out in the Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan. The Development Plan makes it explicitly clear therefore any relevant SPPRs will supersede any related standard as set out in Chapter 8 of the Development Plan. Given that SPPR 8(ii) allows for flexibility in the

provision of private open space, subject to provisos, considered above, I am satisfied that the non-provision of open space for 16 no. of the units does not amount to a material contravention of the Development Plan, nor are the Planning Authority of this view.

Mix

10.6.45. In relation to dwelling mix, Section 8.2.3.3(iv) of the Development Plan, states that 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. The proposed development is comprised 34 no. studio units, 77 no. 1 bed units and 35 no. 3 bed units. As such the proposal is not in compliance with this standard. However, the Advisory Note prefacing Chapter 8 of the Development Plan states that the 'Specific Planning Policy Requirements' set out in the Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan. The Development Plan makes it explicitly clear therefore any relevant SPPRs will supersede any related standard as set out in Chapter 8 of the Development Plan. In this regard I note that SPPR 8 of the Apartment Guidelines state that there is no restrictions on the mix for BTR schemes, such as this one. The proposals are therefore compliant with SPPR 8 of the Apartment Guidelines. I am not of the view, therefore, that the proposed development represents a material contravention of the Development Plan, as relates to Dwelling Mix and given that the proposals are in line with the Apartments Guidelines, I am satisfied that the mix proposed in this instance is acceptable.

Floor Area

10.6.46. The BTR apartment floor areas meet or exceed the minimum standards provided in Appendix 1 of the Apartment Guidelines, as set out in the Housing Quality Assessment. I note that SPPR 8(iv) of the Apartment Guidelines states that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes.

Floor to Ceiling Height

10.6.47. SPPR5 of the Apartment guidelines requires floor to ceiling heights of 2.7m as the minimum for ground level apartments. At ground floor levels (level access off each street), floor to ceiling heights vary within the living rooms from 2.7m - 2.9m. In general floor to ceiling heights range from 2.6m to 2.9m in the majority of units, greater than the minimum of 2.4m for upper units as set out in the Apartment Guidelines.

Storage

10.6.48. The minimum storage space area requirements are set out as an appendix to the Apartment Guidelines as follows:

- Studio – 3 sq.m; 1 Bed Apartment – 3 sq.m; 2 Bed Apartment (3 persons) – 5 sq.m; 2 Bed Apartment (4 persons) – 6 sq.m; 3 Bed Apartment – 9 sq.m

10.6.49. The proposed development meets the above standard. It is further noted in the Housing Quality Assessment that where here the heat pump is located within a store room, the area occupied by the heat pump has been excluded from storage area calculation. Wardrobe provision is indicated within bedrooms in addition to above storage.

Plot Ratio/Site Coverage

10.6.50. An observer submission has stated that the proposed plot ratio and site coverage represent a material contravention of the Development Plan. The Development Plan does not specify standards in relation to same and I am of the view that the proposed site coverage and plot ratio are not unacceptable in themselves but the acceptability of same is subject to considerations such as design, residential standards and impacts on amenity.

Wind/Microclimate

10.6.51. A Pedestrian Wind Comfort Study has been submitted with this application (dated November 2021). The report notes that the area of the central courtyard has been located so as to be sheltered from the predominant south-west wind direction. The curved form at the corner of Cumberland Street serves to dissipate wind speed also, with protrusions on the façade helping to reduce wind speed close to the building line. Inset balconies have also been provided for the majority of units which also offer wind protection, and where balconies are exposed, full length solid glazed balustrades have been provided. The landscaping of the amenity areas has been

designed with wind mitigation measures in mind, including covered and sheltered seating, hedges, raised planters and trellis structures acting as wind breakers.

10.6.52. The terrace at Level 7 is shown to exceed the comfort class for long term sitting, but the majority of the space is suitable for standing or short term sitting. The exceedance is due to the prevailing south-west wind at this location. The other terrace/courtyard areas are shown to be within comfort limits. At street level, some pedestrian comfort levels are exceeded due to the prevailing winds, rather than the development itself, given there is little to no obstruction of the wind coming off the coast at this location. Overall the report concludes that the proposed development will be a comfortable environment for occupants. I am satisfied with the above analysis and accept the conclusions of the report.

10.7. Surrounding Residential Amenity

10.7.1. The nearest residential dwellings are located at De Vesce House to the west, Clearwater Cove to the east and at Salthill to the north of the site.

10.7.2. The submission of the Planning Authority states that it is not considered any unreasonable overlooking of adjacent properties would result from the development. However, it is considered proposed development would appear overly bulky and overbearing and would unreasonably compromise existing residential amenity of the properties to the north, the DeVesce apartments to the west and the Clearwater apartments to the east. It is further stated that only a sample of surrounding windows have been examined for daylight impacts which gives rise to some concern that some potential impacts may not be identified. Further concerns are raised in relation to overshadowing impacts

10.7.3. Observer submissions have raised concerns in relation to the impact on the amenity of the residents of De Vesce House including impacts on daylight, sunlight, and overshadowing, impact on privacy and overlooking, including that the communal terrace will overlook adjacent properties. It is stated that issues raised in relation to previous applications have not been addressed in this proposal including overlooking of Clearwater Cove and protection of residential amenity. It is stated that the proposal would overlook the communal open spaces of Clearwater Cove including the rooftop areas and that these spaces are not shown on the applicant's documentation. In particular it is stated that the proposal would overlook No. 100 Clearwater Cove. Specifically in relation to daylight and sunlight, it is set out that an

assessment of the south-facing windows immediately to the east of the proposed development would have been preferable and that no assessment of the lower level apartments in Clearwater Cove has been carried out. In addition it is stated that the layout of Unit 100 Clearwater Cove as shown in the Daylight and Sunlight report is not correct and appears to show an apartment from the other end of the building. Other issues raised include noise pollution including noise from construction.

Daylight and Sunlight

- 10.7.4. The Apartment Guidelines (2020) state that *‘The provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents. In assessing development proposals, planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development’* (Section 6.5 refers).
- 10.7.5. *Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.* (Section 6.6 refers).
- 10.7.6. *Where an applicant cannot fully meet all of 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, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to a design constraints associated with the site or location 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.’* (Section 6.7 refers).
- 10.7.7. The criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) ‘Site Layout Planning for Daylight and Sunlight – A guide to good practice’ and ask that *‘appropriate and reasonable regard’*

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

- 10.7.8. The guidance as set out in the Sustainable Residential Development in Urban Areas (2009) state that *‘Overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. Planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals. The recommendations of “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” (B.R.E. 1991) or B.S. 8206 “Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting” should be followed in this regard’.*
- 10.7.9. The accompanying Urban Design Manual considers issues of solar orientation and high density development and it is stated that *‘where design standards are to be used (such as the UK document Site Layout Planning for Daylight and Sunlight, published by the BRE), it should be acknowledged that for higher density proposals in urban areas it may not be possible to achieve the specified criteria, and standards may need to be adjusted locally to recognise the need for appropriate heights or street widths.’*
- 10.7.10. Section 8.2.3.1 ‘Quality Residential Design’ of the Development Plan states that In considering applications for new developments the Planning Authority will refer to Government guidelines for ‘Sustainable Residential Development in Urban Areas’, its companion document ‘Urban Design Manual’, the ‘Design Manual for Urban Roads and Streets’ (DMURS) and the ‘Sustainable Urban Housing (Design Standards for Apartments)’. With the same section it is stated that particular criteria will be taken into account including levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices.

Daylight

- 10.7.11. Paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. If the VSC, with the new

development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.

10.7.12. The applicant has submitted a Daylight Sunlight Assessment which considers *inter alia* daylight and sunlight impacts on existing dwellings. The surrounding properties considered in the report are as follows:

- De Vesci House to the west, Clearwater Cove to the east and at Salthill to the north of the site.

10.7.13. In relation to De Vesci House, the assessment considers those eastward facing windows on the lower two floor (ground and first), a total of 12 no. windows. Of the 12 no. windows assessed for VSC, it is set out that 11 of these windows do not achieve BRE targets, with impacts ranging from 47% of its former value (window No. 2 to 90% of its former value (window No. 6). Generally impacts are seen to be of the order of 50-60% of former values. I note that the BRE guidance (Figure 22 – Daylight Assessment Methodology) indicates that should the VSC target not be met, a calculation of No Sky Line should then be carried out. In relation to same, the Daylight and Sunlight Report states that this test has limitations, in that it does not give any qualitative or quantitative assessment of the light in the room, only where sky can or cannot be seen. The report, in its place, carries out an ADF analysis of the above windows, and while acknowledging that this method is not outlined in the BRE Guidelines as one of the steps for assessing the impact to adjacent properties, it does allow for factors such as window and room size and room use, and as the floor plans for the properties at De Vesci House were available, it was considered to be an accurate method of assessment. The analysis then then considers ADF values to those rooms in De Vecchi House, as it is stated that the floor plans of same are available on the planning file. On the lower ground floor, a total of 6 no. rooms are assessed and each of these rooms meet BRE targets for ADF values. On the upper ground floor a total of 4 rooms are assessed and each of these rooms meet BRE targets for ADF values.

10.7.14. In relation to the use of the ADF method, I note that an assessment of ADF is usually used to determine whether the daylight levels in a proposed development will be acceptable. The BRE guidelines state that use of the ADF for loss of light to existing buildings is not generally recommended (appendix F, F7 refers). This is because the use of ADF as a criterion tends to penalise well-daylit existing buildings, because

they can take a much bigger and closer obstruction and still remain above the minimum ADFs recommended. The BRE guidelines describe that a good daylight level requires an ADF of 5%, and that levels below this are likely to require the use of substitute lighting. Minimum levels are described for different room uses in proposed developments, being 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The ADF test is a much less onerous daylight standard than the VSC test, and therefore I question the appropriateness of relying upon it for testing purposes in this development. In this instance I note that the existing ADF of the properties at De Vesci House has not been set out in the report, and as such it is not possible to determine the quantum of impact. In addition, I note the ADF levels, with the development in place, are well below 5% in most cases, with the two of the three living/kitchen/dining rooms at lower ground floor level of De Vesci house just meeting the BRE targets for such rooms (2%). The bedrooms on this level achieve ADF values from 2.0 to 2.2 which is above the 1.0% BRE target. At upper ground floor level values are broadly similar, although one of the two kitchen/living/dining rooms achieves an ADF of 5%.

10.7.15. I also note that the BRE guidelines provide recommendations in relation to the 'no sky line' test to be used in these circumstances. The guidelines do indicate limited circumstances where an ADF test might be relied upon for existing properties, including for sites where a group of buildings is being built one after the other, but this is not the case here.

10.7.16. Notwithstanding my concerns in relation to the methodology utilised above, I have the following comments. The existing site is, for the most part, free of development, with the site allowing for high levels of light penetration to surrounding properties, which De Vesci house derives benefit from. Notwithstanding the nature of the lower and upper ground floor east facing windows (windows no. 1 to 6) is such that the existing levels of daylight are somewhat restricted, both due to overhanging balconies, and by virtue of some of the windows at lower ground floor level being located at or below the boundary wall, due to the change in topography. I am of the view that any development of scale on the application site will have an impact on the daylight levels to these properties, and such an impact is likely even if the development was reduced in height by one or two storeys, in my view.

10.7.17. In relation to Clearwater Cove to the east of the proposed development, two no. windows were assessed (Windows 19 and 20), those westward facing windows on

the top floor level on the west elevation. One of these windows (Window No. 20) does not meet BRE targets for VSC, with the VSC reducing from 39.2 to 25.6, which is 65% of its former value. The report then carries out an analysis of the ADF value for this room (a living/kitchen/dining) and it is demonstrated that an ADF value of 4.5% is achieved to this room (BRE target is 2%). This would appear to be a result of this room being served by additional windows on the southern elevation.

10.7.18. As per my comments above, the use of the ADF methodology is not accepted.

However, I note the impact on window No. 20 does not result in the BRE target for VSC being significantly breached (target is 27% and it falls to 25.6). I note also that this room is also served by additional windows, which will allow additional daylight penetration to the room, and I am not of the view that the impact on same is sufficient to warrant a refusal in this instance, noting urban nature of the site and the need to respond to the constraints of the site, including a preferred perimeter block form which takes the bulk of development within close proximity to this window. While the accuracy of the floorplan submitted in relation to No. 100 Clearwater Cover is questioned, I am not reliant on the accuracy of same as the basis for my conclusion on the impact of this property.

10.7.19. I note also that an observer submission has stated the lower floor units at Clearwater Cove should have been assessed. I do not share this view, given the relationship of the proposed development to Clearwater Cove. The open aspect of the south-facing Clearwater Cove remains which will likely allow sufficient levels of daylight and sunlight penetration to these units. The arrangement of the proposed development is such that the proposed courtyard is open to the east which will also allow daylight and sunlight penetration to the units at Clearwater Cove.

10.7.20. In relation to those properties to the north of the site (referred to as Salthill) in the report, the report considers 6 no. windows on same (No's 13 to 18). Window Nos 13, 16 and 17 do not achieve BRE targets within values falling below 27% and 75%, 75% and 70% of the their former values, respectively. One of these rooms (a bedroom, corresponding to Window No. 16 is selected for ADF analysis and it is show that it achieves an ADF value of 3.1%, above the BRE target of 1%. As per the discussion above, I do not accept the use of the ADF analysis is appropriate in this instance. In relation to the impact on these 3 no. windows, I note that the post-development VSC levels fall to 24.8%, 26.7% and 25.1% for window Nos 13, 16 and 17. I am not of the view that this is significantly below the BRE target of 27% and,

while an impact will be discernible, I am not of the view that this is so great so as to warrant a refusal of the application, as per the discussion above. In addition, as per the discussion above, the site is currently undeveloped for the most part, allowing a large degree of daylight to reach these properties to the north. Again I am of the view that any development of scale will have an impact on these properties, which currently benefit from the open nature of the site.

10.7.21. In relation to the conclusions of the report, in terms of impacts on daylight, I generally concur with same. I am of the view that where shortfalls in meeting BRE targets have been identified, the quantum of windows affected is relatively small, although the impacts are considered to be significant in some cases. However, I am of the opinion that impacts on same are, on balance acceptable, having regard the minimal impacts on the remaining windows of surrounding residential development, to the existing open nature of the site and the need to deliver wider planning aims, including the delivery of housing and the regeneration of an underutilised urban site.

Sunlight

10.7.22. The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE Guidelines suggest that living room windows with an orientation within 90 degrees of due south should be assessed. Section 3.1.10 of the BRE 209 Guidance sets out that for interiors where the occupants expect sunlight, these should receive at least one quarter (25%) of annual probable sunlight hours (APSH) including in the winter months between 21 September and 21 March at least 5% of APSH. The results set out that of the 7 no living rooms analysed, 5 meet BRE standards for Annual APSH and 5 meet the target for Winter WPSH.

10.7.23. 4 no. windows at De Vesci House (1-4), 2 no window at 'Salthill' (5 and 6) and 2 no. windows at Clearwater Cove (7 and 8) are considered in the report. Windows no. 1, 2 and 3 (at De Vesci House) will not achieve annual sunlight targets within Windows 1 and 3 not achieving winter targets also (although I note that this is incorrectly reported in the report). Remaining windows will achieve BRE targets for sunlight.

Window Ref	APSH % Existing		APSH % Proposed		% of Former Value	
	Annual	Winter	Annual	Winter	Annual	Winter

1	13	3	5	3	35	100
2	18	5	18	5	100	100
3	22	5	13	4	60	80

10.7.24. All remaining windows either meet sunlight targets or serve rooms that are served by another main living room window. In relation to De Vesci House, I note the windows as existing do not meet BRE targets for sunlight. This is likely to be due to their location below the site boundary wall (window no. 2) or due to overhanging by a balcony on the upper floor (window No. 1). The windows also have a north-east facing orientation that will limit sunlight to these windows. As per the discussion on daylight above, I am of the view that the open nature allows more sunlight penetration that otherwise would be the case, and furthermore any development of scale on this site would impact on sunlight levels to these windows. While the impact will be discernible I am not of the view that it is so significant as to warrant a refusal, having regard to the mitigating factors and considerations as discussed above.

Shadow Analysis

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

10.7.26. The report considers one amenity area to the east of the site, to the south of the Clearwater Cove apartment block. This achieves BRE targets for sunlight. The report has included a shadow study which indicates overshadowing impacts at other times of the year. There is greater shown impacts during the winter months on this area in particular. As such there will be impacts during the winter months, but in my view any development of scale on this site will impact on to this amenity area during the winter months and given the above, I am satisfied, that on balance, impacts to sunlight to this amenity area will be acceptable.

Conclusion on Daylight/Sunlight/Overshadowing

10.7.27. In conclusion, and having regard to impacts to daylight and sunlight levels to surrounding properties, and overshadowing of same, I am satisfied that external daylight, sunlight and overshadowing report has identified all potential impacts and I am satisfied that the majority of properties will experience impacts that are in line

with BRE Targets. In relation to the those rooms where shortfalls of significance have been identified, I have considered the significance of same above, and while I acknowledge there will be an impact on daylight and sunlight levels to a number of rooms. The submitted Daylight and Sunlight Report has considered only the 'worst case scenario' windows and as such the majority of potentially impacted windows facing towards the development will experience impacts that are in line with BRE targets. In conclusion I am of the view that the overall impact is, on balance, acceptable having regard to the detailed discussion above. I am satisfied that impacts on surrounding amenity spaces will also be acceptable, having regard to the considerations above.

Overlooking/Loss of Privacy/Visual Impact

- 10.7.28. Section 8.2.8.4 of the Dún Laoghaire Rathdown Development Plan 2016-2022 states that a minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, normally resulting in a minimum rear garden depth of 11 metres. I am of the view that this distance relates to standard housing developments with back to back gardens. In any case I note there are no directly opposing rear windows in this instance.
- 10.7.29. As noted above the closest residential properties are located at De Vesci Court to the west, to the north fronting onto the Old Dun Leary Road to the north and Clearwater Cove to the east. The development is set back a minimum of 19.5m from the eastern façade of De Vesci Court, 15.6m from those properties on Dun Leary Road and a minimum of 2.6m from Clearwater Cove. In relation to the impacts on De Vesci Apartments, I note there is a significant amount of windows that face towards the proposed development. However, the setback distance of 19.5 is sufficient to overcome any material overlooking and such a setback is not unusual in an urban setting, in particular bearing in mind the need to create a frontage along Cumberland Street. In relation to the impact on those properties to the north on Old Dun Leary Road, the minimum setback distance is 15.6 m. I note that this setback distance is similar to the relationship of De Vesci House to the residential properties to the north of same on Old Dun Leary Road. As such, such a setback distance is established and in my view will not result in any material overlooking of the residential properties which front onto Old Dun Leary Road. In relation to Clearwater Cove Apartments, the western façade of this property is free of windows, save for the top floor of same.

There are no directly opposing windows facing towards the top floor unit of Clearwater Cove.

10.7.30. In relation to potential overlooking from the proposed communal terrace areas, I note that there is a terrace proposed on Level 07 which has the potential to afford views towards De Vesci Court. However, the setback distance is some 19.5m and there is sufficient planting and landscaping proposed to same to overcome any actual or perceived overlooking. In relation to overlooking of Clearwater Cove from the terrace at Level 5, this is located in relatively close proximity to the unit at level 6 of same. However I am of the view that appropriate screening can be conditioned to overcome any overlooking of same.

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

Visual Impact

10.7.32. In relation to visual impact, I have discussed this in detail in relation to views from the street, and the resultant visual impact of same, in Section 10.5 above.

Noise

10.7.33. Noise impacts can occur from both the construction phase and operational phase. A Noise Impact Assessment has been submitted with the application. This considers the impact of noise and vibration during the construction and operational phases of the development. In relation to noise and vibration from construction, best practice noise and vibration control measures will be implemented to minimise impacts on adjacent properties. In relation to impacts at operational stage, the report considers noise from building services plant and from traffic generated by the development. In terms of plant noise, it is noted that the majority of plant will be located in the basement area. I note that there is no basement works proposed and the report should have referred to an 'undercroft area'. Notwithstanding, the location of same within this area will serve to limit noise emissions. Recommendations are set out in the report, including that plant noise should remain below the average background noise levels. Impacts from traffic noise are concluded to be negligible. I am satisfied that subject to the mitigation measures as detailed in the report, impacts from noise and vibration at construction stage can be mitigated so as to minimise impacts on

surrounding residents, and that plant noise at construction stage can be minimised by the mitigation measures as detailed in the report.

10.7.34. The Noise Impact Assessment does not consider potential impacts from the use of the roof terraces. Notwithstanding I am satisfied that the larger roof terrace, fronting onto Cumberland Street, is sufficiently set back from surrounding residential properties so as to minimise the potential for noise impacts. While the smaller terrace area is closer to the properties at Clearwater Cove, I am satisfied that the management of the proposal will also reduce the potential for anti-social behaviour, and hence reduce the potential for noise impacts from same.

10.8. Traffic and Transportation

10.8.1. The Planning Authority submission, in relation to Transport Issues, refer to the contents of the Transportation Planning Report. This states that the Transportation Planning Section area generally in favour of a development of the proposed site which includes improvement of the forward visibility along Old Dun Leary Road, signalisation of the junction between Cumberland Street and Old Dun Leary Road and reduction in the width and corner radii of Cumberland Street. However it is stated that the proposed car parking provision is too low, although an appropriate provision is not suggested. SHD is inadequate in some aspects. It is noted that the applicant is providing cycle parking which is double stacked and the preferred provision is Sheffield Stands. The conclusions of the Traffic and Transport Assessment are accepted, as relates to impacts on the surrounding road network. It is further stated that the proposed vehicular access provides inadequate and that there is insufficient visibility between exiting vehicles and pedestrians passing on the adjacent footpath and vice versa. Furthermore it is stated that servicing should take within the curtilage of the development as there are concerns in relation to the proposed method and scale of collection and removal of refuse. It is stated that a condition required in relation to amendments to the submitted roads layout as a result of DLRCC Temporary Covid-19 Mobility Measures.

10.8.2. Observer submissions state that inadequate parking provision has been provided. In addition it is stated that public car parking spaces have been utilised in this application and that the proposed street parking will create a blind junction. Insufficient street parking is identified as an issue in the area. It is stated that there is a lack of parking for the retail units. The potential for overspill parking is raised as a

concern and it is stated that residents of the development should be prohibited from obtaining resident's parking permits. It is noted that there is no provision for a cycle path as part of the proposed development. It is also stated that waste collections should be carried out from the envelope of the proposed underground car park and that the proposed waste collection arrangements are not practicable. In terms of impacts on the surrounding road network, it is contended that this current proposal, as well as two other recently permitted SHDs in the area, will add to traffic congestion. In addition, it is stated that the TTA is not adequate in that the traffic survey was insufficient and was limited to an analysis of one slip road to the side of the development, that it took place before the close of the N31 to traffic and the creation of a coastal cycleway. It is stated that the TTA is based on erroneous and unsupported assumptions and that the data utilised in the TTA is not reliable. It is also set out that the proposed cycle parking does not meet the standards of the DLRCC Plan. In terms of public transport, observer submissions state that the No. 7 Bus Route has no bus lane for most of the route into town and is slow and underused, and that the DART service is often full by the time it reaches Monkstown Station. As such it is contended that a car is a necessity for many and is the only way to access many parts of the city.

Existing Road, Cycle, Pedestrian and Public Transport Infrastructure

- 10.8.3. To the north of the site is the Old Dun Leary Road (N31) and to the south by Cumberland Street. The N31 is a one-way single carriageway road in the vicinity of the site with traffic restricted to westbound movements from Crofton Road to Newtown Avenue, as a result of the implementation of the Coastal Mobility Route in 2020.
- 10.8.4. There are footpath facilities on the Old Dun Leary Road and Cumberland Street, with the nearest priority crossing on Cumberland Street at the junction with the R119. The Coastal Mobility Cycle Route runs to the north of the site along the Old Dun Leary Road.
- 10.8.5. The site is located approximately 300m from Salthill & Monkstown Train Station with services running to Greystones/Bray in the south and Malahide/Howth Junction to the north, with connections to other rail services available at Grand Canal Dock, Pearse, Connolly and Tara. The DART services run at a frequency of every 10 mins between 06:50am and 8pm.

- 10.8.6. The site is served by the 7 & 7a bus services, the closest stops are located on Cumberland Street and De Vesci Terrace (25m and 100m from the site respectively). York Road, located approximately 250m from the site is served by the 46a, 63, 75 and 111. The 46a runs at a frequency of every 10 minutes Mon to Fri with services every 15 minutes Saturday and Sunday. Appendix C of the Traffic and Transport Assessment sets out the comprehensive transport network serving the site.

Road, Cycle Pedestrian and Public Transport Proposals

- 10.8.7. The NTA's Greater Dublin Area Cycle Network Plan (2013) indicates a number of proposed cycle routes in the vicinity of the site. Route 13E 'Coastal Mobility Route' has been largely put in place. The DART+ Coastal South Programme extends from Greystones to Dublin Connolly and includes infrastructure upgrades to improve capacity. Under the Bus Connects programme, the site will be served directly by future bus route B3 which will have a frequency of every 15 minutes.

Access/DMURS

- 10.8.8. Access to/from the site will be from the N31 Old Dunleary Road with the site access in the form of a three arm priority junction with the N31 Old Dunleary Road. The proposal provides for sight lines of 49m which is compliant with DMURS design standards for a 50 kph road. Pedestrian and cycle access will be also be via the N31 entrance.
- 10.8.9. The proposal includes upgrades to the existing pedestrian footpath network and to the surrounding public realm. These include improved footpaths within the vicinity of the site on the N31 and Cumberland Street. The existing N31/Cumberland Street priority junction is proposed to be converted to a signal-controlled junction with improved footpaths and signalised pedestrian crossings on all arms.

Car and Cycle Parking

- 10.8.10. The proposed development will include 44 undercroft car parking spaces with 8 no. on-street car parking spaces available on Cumberland Street. Excluding the on-street bays (which I shall discuss below) this corresponds to a provision of 0.3 spaces per unit. It is proposed to provide 1 no. GoCar parking space within the proposed car park. No parking is provided for the retail unit or for the co-working space.

10.8.11. In terms of the on-street parking arrangements, the TTA notes that the existing on-street public car parking on Cumberland Street will be altered due to the proposed improvement works along this street. There are 11 no. existing spaces. It is proposed to provide a total of 8 no. spaces, with 4 no. spaces on either side of Cumberland Street. The Planning Authority have not objected to this arrangement.

10.8.12. SPPR 8 (iii) of the Apartment Guidelines (2020) states that 'there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being 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.

10.8.13. In relation local policy on car parking, Table 8.2.3 of the Development Plan sets out car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. Applied to this development, it would represent a requirement of 164 no. spaces. A total of 44 no. spaces are proposed for this development. As noted above the Planning Authority and Observers state that inadequate parking has been provided.

10.8.14. I noted that the Development Plan includes a caveat stating that reduced car parking standards for any development may be acceptable dependant of specific criteria including:

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

- 10.8.15. In relation to the criteria as set out above, where reduced standards may apply, I note the following:
- 10.8.16. The site lies within a built up area and is within 300m of Salthill & Monkstown Dart Station, with good pedestrian connections to same. It is also well served in terms of bus services, as noted above. The site is within walking Distance of Dun Laoghaire Town Centre, which is defined as a Major Town Centre in the Development Plan.
- 10.8.17. In terms of the precise nature of the proposal, I note that the proposal is a Build to Rent (BTR) development, and I refer to SPPR8 (iii) of the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for such BTR developments, subject to a strong management regime in place, in order to operate shared mobility measures. In relation to same, the application has submitted an Mobility Management Plan which sets out measures that will be undertaken to encourage more sustainable transport choices which will serve to reduce demand for the private car. I note 1 no. Go Car space is also provided which will further serve to reduce demand for private car ownership.
- 10.8.18. The proposal is predominantly residential, however the immediate surrounding area has a mix of commercial and residential development, with a wide range of land uses in the wider area, including within Dun Laoghaire Town Centre. There is a wide range of land uses in the area, with a large number of shops and services within walking distance of the site. Conversely, there is a large residential population in the surrounding area, within walking distance to the existing neighbourhood centre, and as such parking demand for the retail and co-working elements will be minimised as a result. There is on street-parking controls on Cumberland Street and no opportunity to park on the Dun Leary Road in the vicinity of the site and as such this will serve to mitigate any overspill parking from the site.
- 10.8.19. Having regard to the above considerations, in particular the requirements of SPPR 8(iii) of the Apartment Guidelines, and having regard to the flexibility set out in the Development Plan as relates to parking standards, I am the view that the overall provision of parking does not represent a material contravention of the Development Plan and, on balance, I am satisfied that the provision of 44 no. spaces is acceptable in this instance and complies with the standards set out in SPPR8 (iii) the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for BRT developments.

10.8.20. In terms of the car parking management strategy, it is stated with the TTA that no residential unit will be allocated a parking space but instead the spaces will be rented out at a cost of 100-150 per month which is set at such a rate so as to discourage the use of private vehicles. This is outlined in the Parking Strategy Report and is designed to minimise the demand for spaces. I have no objection to same, although a detailed car parking management strategy should be required by condition, should the Board be minded to grant permission.

Cycle Parking

10.8.21. It is proposed to provide a total of 277 cycle parking spaces to serve the proposed development. It is set out that there is 183 no. long term residential parking spaces and 94 no. visitor spaces. This above Development Plan standards of 175 spaces and above Apartment Guideline cycle parking standards of 264 spaces. 32 no. on-street visitor spaces are to be provided on Cumberland Street and Old Dunleary Road to serve visitors to the retail unit and the co-working space. I note the Planning Authority have requested that Sheffield stands be provided in place of the double stacked parking. There would be significant space implications for same. I note that the short term cycle parking is in the form of Sheffield Stands with the long term area in the form of double-stacked parking. I am of the view that the provision is appropriate within the arrangement maximising the number of spaces on the site.

Impacts on the surrounding road network.

10.8.22. The Traffic and Transport Assessment (TTA) states that a vehicle turning count survey/junction turning count was carried out over a 12 hour period from 07:00 to 19:00 on Thursday 9th May 2019 for the following junctions:

- N31/Cumberland Street Junction
- Cumberland Street/R119 Junction

10.8.23. The peak hours were determined to be 08:15-09:15 (AM) and 16:45 – 17:45 (PM). The survey determined that there was a total of 503 no. vehicles travelling east along the N31 in the AM peak hour with 442 vehicles in the PM peak. There was 346 vehicles travelling west along the N31 in the AM peak and 344 vehicles in the PM peak hour. It is further that traffic flows at the Cumberland Street/R119 junction were low. The TTA notes that traffic volumes are likely to have been further decreased as a result of the implementation of the two way cycle lane which runs along the Old

Dun Leary Road in the vicinity of the proposed development, as well as a result of the global pandemic. However a conservative approach was taken and the junctions have been analysed on the originally determined traffic volumes. The following junctions were analysed:

- Junction 1 – N31 Old Dunleary Road/Cumberland Street
- Junction 2 – R119 Dun Leary Hill/Cumberland Street

10.8.24. Predicated trip generation rates were generated utilising the TRICS database, with a total of 36 no. trips generated in the AM Peak Hour with 43 trips generated in the PM peak hour. Reference is made to the limited provision of car parking proposed, with the likelihood then that the actual trip generation rate will be below that generated by the TRICS database. However, these figures were utilised in order to provide a conservative estimate of traffic impacts.

10.8.25. In order to determine Traffic Growth, a Design Year of 2023 is expected, and in line with TII Guidance, Future Design years (+5 and +15 years, 2028 and 2038) were adopted. The TTA utilises 'central growth' rates as per TII Guidance. Two different traffic scenarios were then considered for the design year and future design years - the 'Do-Nothing' scenario and the 'Do-Something'/Post-Development Scenario.

10.8.26. Impacts at Three no. junctions were considered:

- Junction 1 – N31 Old Dunleary Road/Cumberland Street
- Junction 2 – R119 Dun Leary Hill/Cumberland Street
- Junction 3 – N31 Old Dunleary Road/Site Access

10.8.27. For each of the junctions it is set out that none of the junctions exceed the 10% threshold required for further analysis as set out in the NRA/TII Guidelines.

10.8.28. I note that the survey data was obtained in October 2019 and observers have stated that the traffic data is outdated. There is no indication in the TTA as to why more recent data has not been provided. However, I have had regard to the restrictions imposed as result of the Covid 19 regulations, which from March 2020 to recently, have restricted movement throughout the country. In addition, I am of the view that even if surveys were taken from March 2020, they would not necessarily be indicative of traffic volumes, due to same restrictions. While I note the concern of observers in relation to the limitation of the traffic survey data, which was limited to

one day, I am not of the view that this is fundamental. While perhaps it may have been preferable to have a wider analysis of traffic data over a longer period of time, there is no evidence that the day/date/time of the survey would have meant that traffic levels different from the norm would have been experienced.

10.8.29. I note also the reduced car parking ratio (at 0.3 spaces per unit) which will reduce the overall impact of private car uses, relative to the impact of a car parking provision that is closer to the 'standard' provision as set out in the Development Plan. The site is served by a high frequency, high capacity DART service, with good pedestrian links to same, and as such this will also serve to minimise the use of private cars, reducing the overall impact on the surrounding road network.

10.9. Ecology/Trees

10.9.1. The Planning Authority have not raised any concerns in relation to Ecology or in relation to the impacts on trees. Observer submissions have raised concerns in relation to potential impacts on biodiversity within De Vesci Gardens (attached supporting report on Biodiversity in the Monkstown Area).

10.9.2. The application is accompanied by an Ecological Impact Assessment (dated November 2021). This sets out that the development site is predominately composed of 'Buildings and Artificial Surfaces – BL3', with a large shed on the north east with a residential dwelling on the southern boundary. Vegetation is minimal on the site and are of low biodiversity value. There are no habitats which are examples of those listed in Annex II of the Habitats Directive, no invasive species on the site and no water courses on the site. The site provides only few resources for large mammals or protected mammal species. A Fox den was present on the site under the boundary wall to the south-east of the site. It is noted that this is not a protected species. The Bat Survey found no evidence of bats roosting in the buildings on the site, although two species were noted feeding/commuting. The two buildings on site were noted as providing roost potential however. Two number bird species were recorded in a survey in July 2021 – Dunnock and Blackbird (no species were recorded in June 2021). Both species are of low conservation concern/green list. There is little suitable nesting habitat on the site. There are no wetland habitat that could support Common Frog or Smooth Newt. Overall it is concluded that the Buildings and artificial surfaces were of 'Negligible ecological value'. The large

sycamore on the site was considered to be of 'Low local ecological value' (although I note that this is not referred to elsewhere in the report).

- 10.9.3. Section of the EclA sets out potential impacts of the development. During the construction phase, in the absence of mitigation, it is set out that the removal of habitats will be a minor negative impact. Directly mortality of species including bird, bat and fox species was identified as potential impact, although it is noted that there is little suitable bird habitat on the site with potential moderate negative effect predicated. No likely pollution of watercourses was considered likely. At operational stage it is noted that wastewater will be sent for treatment to the Ringsend WWTP. Compliance issues are noted in relation to same and the need for upgrades to address these issues. Notwithstanding it is set out that there is currently no evidence that non-compliance issues at Ringsend WWTP are having negative effects to features of high ecological value (e.g. wading birds or intertidal habitats). Reference is made to upgrade works being carried out by Irish water with compliance issues being addressed by 2022. In relation to potential pollution of water from surface water run-off it is stated that the proposed development will result in a net-improvement to surface water run quality off by virtue of the proposed surface water drainage system, as compared to the existing situation of unattenuated run off from the hardstanding on the site. The proposed system is design so that surface water will percolate to ground or discharge to a municipal surface water sewer with no change to the quantity of surface water leaving the site. Artificial lighting was considered, at worst to result in a moderately negative impact on bat species. No significant cumulative impacts were identified.
- 10.9.4. Section 6 sets out 'Avoidance, Remedial and Mitigation Measures' which includes appropriate timing of vegetation removal, inspection of buildings prior to demolition works and provision of bat boxes, appropriate lighting measures and provision of feeding opportunities through new planting.
- 10.9.5. Section 8 of the report sets out that that after mitigation, no residual effects are likely to arise to biodiversity as a result of the proposed development.
- 10.9.6. In terms of the conclusions set out in the EclA, as relates to impacts, I generally concur with same and I am satisfied that sufficient surveys have been carried out, both in relation to general ecology and in relation to bats, and overall I am satisfied that sufficient survey work was carried out in order to be able to arrive at the

conclusions set out in the EclA. I have discussed the issue of Natura 2000 sites specifically in Section 12 of this report. There is no evidence that there will be adverse impacts on bats, birds of conservation concern, protected mammals such as badger or otter, or on any other species or habitat of conservation concern, subject to the mitigation measures being put in place. No adverse impacts on the surface water network will result from the proposed development (see further discussion of same in Section 12 of this report).

10.9.7. I am not of the view that the proposal has the potential to impact negatively on the biodiversity of De Vesci gardens, given the separation distance from the proposal to same (a minimum of 12m), which to my mind rules out likely impacts on these gardens.

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

10.10. Flood Risk

10.10.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by “ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities”.

10.10.2. The Planning Authority raise concerns that proposal would exacerbate the widely known sewer capacity issues in the area and it may not be within the gift of the applicant to provide a solution. I have considered this issue specifically in Section 10.11 ‘Site Services’. Specifically in relation to the submitted SFRA, it stated that the conclusions of same are accepted.

10.10.3. Observer submissions state that existing flooding in occurs in the area with regular sewerage smells and flooding problems due to insufficient sewerage capacity. It is

stated that no consideration is given to the flooding hotspot to the north of the site and that the application fails to address serious flooding and drainage issues.

10.10.4. The applicants have submitted a Site Specific Flood Risk Assessment. This notes that there are no watercourses on the site and that the site is located alongside Dun Laoghaire Harbour. It is stated that the nearest EPA designated water course is the Monkstown Stream, which lies approximately 800m to the west of the subject site. In relation to historical flooding events, the site itself has not flooding, although pluvial flood events in areas in the vicinity of the site are noted and are due to blocked road gullies during heavy rainfall periods although a recurring flood event is seen to occur at a point to the north of the site. The risk of tidal flooding is shown to be low, with Irish Coastal Protection Strategy Study (ICPSS) mapping showing the 0.1% AEP water level reaching a maximum of 3.19m AOD, with the minimal level of the northern area of the site being at 4.38m AOD. These levels ensure there is no flow path of tidally influenced flood events. It is also set out that the finished floor levels of the proposed development are a minimum of 4.40 AOD, providing a freeboard of 1.20m. In relation to Pluvial Flood Risk, the DLRCC SFRA identifies a recurring surface water flooding event, directly to the north of the site, and the SFRA notes that it is believed that this occurs due to sewer surcharging. This point as identified in the DLRCC SFRA is not definitive as reports of other flooding events have placed it further east along the Old Dun Leary Road, and a topographical survey has identified a low point further to the east of the site. The SFRA sets out that this point has a level of approximately 3.9m OD. The FFL of the proposed development is 4.40m OD, so it is concluded that the risk of flooding from this source is considered to be low.

10.10.5. Specifically in relation to the risk of sewer surcharging, it is stated that such flooding would follow the topography to a low point on Old Dun Leary road, where this overtops the railing and creates a flow path onto the DART line to the north. As per above, the proposed FFL serves to ensure that the risk of flooding from this source is low.

10.10.6. The risk of groundwater flooding was considered low due to the low groundwater levels at this, with groundwater encountered at 4.40m below ground level.

10.10.7. Low flood risk is also associated with the proposed drainage and surface water network, should they not be designed in accordance with regulations. However it is

set out that the proposed drainage system has been designed in accordance with current requirements of the GDSDS and these measures are set out in detail within the submitted Infrastructure Design Report (see also Section 10.11 below).

10.10.8. Mitigation measures to address residual flood risks as identified above include maintenance of the proposed drainage system and associated pumps and equipment and sufficient

10.10.9. In relation to the conclusions of the report, I am satisfied that the site itself is not subject to tidal or fluvial flooding or groundwater flooding. In relation to surface water flooding, the report states that no such flooding has been recorded on the site itself and notes that it is more likely such flooding has occurred at a low point further east along Old Dun Leary Road, possibly as a result of sewer surcharging, and this may well be the flooding that observers have noted close to the site. I noted the Drainage Division of the Planning Authority have stated that the conclusions of the Site Specific Flood Risk Assessment are accepted, although as noted above the Drainage Division have raised concerns in relation to the capacity of the combined sewer network, which I have considered in Section 10.9 below.

10.10.10. In conclusion, having regard to the fact that the site lies within Flood Zone C, the lack of an evident history of flooding on the site itself and having regard to the surface water management proposals as set out in the application documents, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions.

10.11. Site Services

10.11.1. Irish Water have not raised any objections to the foul water or water supply proposals as set out in the application documentation, and have not raised any issues in relation to foul or water supply capacity.

10.11.2. The Planning Authority raise concerns that proposal would exacerbate the widely known sewer capacity issues in the area and it may not be within the gift of the applicant to provide a solution, and it has not been demonstrated that the proposed diversion of the 1200mm combined sewer running through the site is feasible. . Therefore it is not possible to address via conditions until Irish Water addresses the network capacity issues in the area the development. It is set out, therefore, that the application would be premature and should be refused by APB. Recommended

Reason for Refusal No. 3 refers to same. Conditions are recommended in relation to surface water proposals.

10.11.3. Observer submissions state that existing flooding in occurs in the area with regular sewerage smells and flooding problems due to insufficient sewerage capacity. It is stated that no consideration is given to the flooding hotspot to the north of the site and that the application fails to address serious flooding and drainage issues.

10.11.4. The application is accompanied by an Infrastructure Design Report which sets out *inter alia* the surface water, foul water and water supply proposals.

Surface Water

10.11.5. It is set out that the surface water management proposals have been designed to comply with the policies and guidelines in the Greater Dublin Strategic Drainage Study (GDSDS) and with the requirements of Dun Laoghaire Rathdown County Council.

10.11.6. Infiltration techniques were not suitable due to the nature of the site. Therefore it is proposed to utilise SUDS features at roof/terrace levels and podium level including green roofs, permeable paving and rain gardens. This will convey surface water run-off via the drainage system to a larger attenuation tank. The proposed attenuation tank is located at level 00, under the car park area. This will provide the required volume for the 1% AEP event as well as provided +10% for climate change. A flow control device will limit discharge to 0.6 l/s. It is stated that due to the site levels and existing infrastructure in the vicinity of the site, the proposed attenuation tank will be pumped as a gravity connection is not feasible. Section 6.8 of the report sets out further details of same, and it is stated that the pump will limit discharge to 0.6l/s with outflow discharged to the discharge manhole before draining under gravity via a proposed new 225mm diameter surface water line to the public sewer. The proposals have been amended where applicable to take account of the recommendations of the Stage 1 Stormwater Audit. The pumps within the pump station will be installed in a duty stand-by arrangement with two stand-by pumps to allow for redundancy in the system. In the case of the ex e external public sewer is surcharged and hence the discharge manhole is at capacity, the pump will discontinue pumping and the overflow will be contained within the car park area as the entrance level has been manipulated to allow 100mm to be stored over the car park area providing approximately 165m³ of storage. This carpark storage excludes

the volume available within the attenuation tank and internal surface water sewer network. It is further set out that all doors at car park level will be fitted with water-tight seals to prevent any flooding of the facilities.

- 10.11.7. Section 6.6 of the Infrastructure Design Report considers the potential impact on surface water quality, and it is stated that the type of development does not present a high risk of run-off contamination and the design of the surface water proposals further reduce the risk of contaminants entering the surface water network.

Foul

- 10.11.8. There is an existing culvert running through the site (Monkstown Culvert)> it is proposed to decommission and demolish this with the site boundary and divert foul water flows, via a new manhole constructed to the west of the site. This will then collect existing flows from the brick culvert and intercept the 300mm overflow sewer at this location. The sewer diversion will begin at the proposed new manhole and run directly to the existing manhole on the Old Dun Leary Road where it will tie back into the existing network. The foul water will ultimately drain via one outfall to the existing 1200mm diameter Irish Water foul sewer on Old Dun Leary Road to the north of the development. The applicant has submitted details of same within a technical note 'Culvert Diversion Methodology'. I note the Planning Authority have stated that the proposed diversion may not be achievable, and that the development is premature pending a resolution of network capacity issues in the area. In relation to the proposed diversion, Irish Water have commented on same in their submission and have issued the applicant a Confirmation of Feasibility letter outlining that a diversion can be facilitated. In relation to the capacity of the network, I do note the Planning Authority have noted issues with capacity in the combined sewer network, and there does appear to be surcharging occurring within the network (as noted in Section 10.8 above). However, Irish Water have not stated that there is a fundamental issue in relation to the capacity of the network that would result in this development being premature. Irish Water have not highlighted any plans or projects that they are intending to undertake to address network capacity issues, and no such projects are indicated on the Irish Water website. As such in the absence of an in principle objection from Irish Water, who are the responsible authority for the wastewater network, I am satisfied that the foul water proposals as detailed in the application documents are acceptable, subject to conditions.

10.11.9. Water Supply

- 10.11.10. The proposed development will be served by a water supply connections to the existing watermain on the Old Dun Leary Road. Irish Water have not cited any concerns in relation to same.

10.12. **Other Issues**

Childcare

- 10.12.1. The application is accompanied by a Community Infrastructure Statement which determines that there proposed development would generate a demand for 5 no. spaces, applying the provisions of the Apartment Guidelines (2020). The Community Infrastructure Statement identifies sufficient crèche capacity within the area to cater for the demand of the proposed development. I am satisfied with the conclusions of same and I accept that there is sufficient capacity in the area to cater for the potential childcare demand generated by the development.

Part V

The proposal provides 15 no. Part V residential units within the scheme. The Housing Section of DLRCC have stated that it is council priority to acquire residential units for social housing and to phase out long-term leasing of social housing. It is further stated that 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. I am satisfied that this issue can be addressed by way of condition.

SHD process

- 10.12.2. Some observer submissions have raised concerns with regards the strategic housing development process. An Bord Pleanála are obliged to implement the provisions of planning law, including the SHD process laid down in the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), and related Regulations. They are also obliged under section 9 of that Act to have regard to, inter alia, the policies of the Government and the Minister, including guidelines issued to planning authorities and to the provisions of Development Plans.

Archaeology

- 10.12.3. The application is accompanied by a report on Archaeology and Cultural Heritage. This notes that there is no RMP sites in or adjacent to the subject site, although there are 8 no. RMP sites within 1km of the subject site, which are detailed in the

report. The sites does not lie within a Zone of Archaeological Interest, nor is there one nearby. Aerial photography has not revealed any areas of archaeological potential on the site. In the immediate area 4 no. archaeological investigations have taken place with no features of archaeological significance encountered. A number of individual finds have been noted by the Natural Museum of Ireland Topographical Files as detailed in the report. A site visit did not reveal any obvious areas of archaeological potential. It is concluded within the report that there is low potential for the survival of buried archaeological remains on the site. However, archaeological monitoring during groundworks is recommended. The submission from the DAU has accepted that these conclusions and also recommend archaeological monitoring. This can be sought be way of condition.

10.13. Planning Authority's Recommended Reasons for Refusal

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

1. *The proposed development, by reason its scale, height and massing, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposal is considered to constitute overdevelopment of the site and is considered to be contrary to Section 8.3.2 (Transitional Zonal Areas) of the Dun Laoghaire Rathdown County Development Plan 2016-2022, insofar as it will seriously injure the residential amenities of properties located within its immediate vicinity by reasons of being visually overbearing and overshadowing. The proposed development is considered to be contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

10.13.2. I have considered all of the issues raised above within Sections 10.4 and 10.5 of this report. While I do concur that the proposed extension to the proposed Protected Structure would be visually overbearing, I am not of the mind that the height strategy pursued on the remainder of the site would result in a detrimental impact on the character of the area, nor would it constitute overdevelopment of the site. I am satisfied that that there will be no material impacts on the amenity of surrounding

properties as a result of the proposed development, save for a negative visual impact as a result of the proposed three storey extension to the proposed Protected Structure.

2. *There is a 1200mm ID combined sewer passing through the site and a diversion of this is required. It has not been demonstrated that the required diversion of this asset is feasible. Given the significance of the public 1200mm sewer infrastructure within the site and the need to protect this asset, combined with the requirement for further detailed studies to be carried out to determine the feasibility of any diversion, it is considered that the application is premature pending the capacity of the foul sewer infrastructure to be diverted, and would be contrary to the proper planning and sustainable development of the area.*

10.13.3. I have considered all of the issues raised above within Sections 10.10 and 10.11 above and have concluded that in the absence of an in principle objection from Irish Water, who are the responsible authority for the wastewater network, I am satisfied that the foul water proposals as detailed in the application documents are acceptable, subject to conditions.

3. *The proportion of single aspect apartments in the proposed development would contravene Specific Planning Policy Requirement 4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in 2020. The quantum and location of compensatory communal open space is not considered adequate to compensate for the proportion of individual units without private amenity space and would therefore contravene Specific Planning Policy Requirement 8 of the Guidelines. The proposed development would, therefore, fail to provide an adequate level of residential amenity for future occupants of the scheme, and would be contrary to Ministerial guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000 as amended. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

10.13.4. I have considered all of the issues raised above within Section 10.6 of this report and I am satisfied that a sufficient number of dual aspect units have been provided, in line with SPPR 4, having regard to the site's location in an accessible urban location.

I have considered the issue of private amenity space provision and the issue of compensatory communal space provision, and I am satisfied that that the proposals are in line with SPPR 8 of the Apartment Guidelines, as relates to such matters.

4. Specific Local Objective 153 relates to this site which states that ‘The Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated’ The proposal includes the removal of a significant proportion of the exterior and interior elements of the Yellow Brick Building known as ‘Dunleary House’ (addressing Dunleary Hill) which is also designated as a proposed Protected Structure in the Record of Protected Structures in the draft County Development Plan 2022-2028. The development as currently proposed, would not, therefore, accord with Specific Local Objective 153 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, or the proper planning and sustainable development of the area.

10.13.5. I have considered all of the issues raised above within Section 10.4 and 10.5 of this report and I concur that the proposed works to Dunleary House, a proposed protected structure would not be in line with Specific Local Objective 153 for the reasons as set out in the report. Furthermore, I am of the view that the works proposed are not in line with the guidance as set out in the Architectural Heritage Protection Guidelines (2011) and I have recommended a refusal of permission on this basis.

10.14. Material Contravention

10.14.1. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dun Laoghaire Rathdown Development Plan 2016-2022 in relation to the following matters:

- Height
- Unit Mix
- Residential Density
- Car Parking
- Private Open Space
- Dual Aspect
- Transitional Zones

- Specific Local Objective 153 (The retention of The Dunleary House/Yellow Brick House and boundary)

10.14.2. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (c) of same states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'. As noted in Section 10.2, I do not consider that the proposal materially contravenes the zoning objectives that pertain to the site.

10.14.3. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Height

10.14.4. In relation to height, the Material Contravention Statement sets out that, with reference to Policy UD6 (which requires adherence to the Building Height Strategy) and with reference to Appendix 9: Building Height Strategy of the Development Plan. It is set out that the subject site may be considered to fit into two categories as set out in the Building Height Strategy – Dun Laoghaire/Coastal Fringe. The Material

Contravention sets out the provisions of Section 3.2 of the Height Strategy which refers to Dun Laoghaire. This, in turn, refers to the provisions of the Dun Laoghaire Urban Framework Plan. It is noted that there are no specific height limits set out in either the Building Height Strategy nor within the Urban Framework Plan.

10.14.5. The Material Contravention Statement sets out that *‘Whilst it is acknowledged that the Building Height Strategy does not place a numerical height limit on new development in the Dun Laoghaire area, it is noted that the ‘Coastal Fringe’ designation may impede the delivery of an appropriate scale of development at the subject site. It is therefore respectfully submitted that the objectives in the Building Height Strategy as they relate to the subject site may seek to limit the building height at this site to 3-4 storeys, and it may be concluded that the subject proposal (with a max height of 8 storeys) would materially contravene the Development Plan’*

10.14.6. In relation to the Coastal Fringe, the Building Height Strategy does appear to indicate that the site is within the Coastal Fringe Area (as well as being within the Dun Laoghaire area). Being within the Coastal Fringe constitutes a ‘Downward Modifier’ for the purposes of the Building Height Strategy. Section 4.8.2 ‘Coastal Fringe’ sets out that ‘Where development is proposed within this zone which would exceed the height of its immediate surroundings, an urban design study and impact assessment study may be required to demonstrate that the scheme will not harm and will protect the particular character of the coastline including, where appropriate, views from the sea/pier’. Again there are no height limits set out here and I have concluded that there will be no negative visual impacts or negative impacts on the skyline when the proposal is view from the East or West Piers.

10.14.7. The Planning Authority have not considered that the proposal is a ‘material contravention’ of the Development Plan (which includes the Building Height Strategy in Appendix 9 and the Urban Framework Plan in Appendix 12) but have stated that the proposal is contrary Policy UD1 and Appendix 9 (Building Height Strategy) of the Development Plan. The Planning Authority, for the purposes of applying the provisions of the Building Height Strategy are explicit in that the site lies within ‘Dun Laoghaire’ rather than the ‘Coastal Zone’. I am also of that view, and a reading of the Building Height Strategy would indicate that the ‘Coastal Zone’ designation would apply to those areas designated as ‘Residual Suburban Areas not included within Cumulative Areas of Control’, as per Section 4.8 of the Plan. The site is with the Boundary of the Dun Laoghaire Urban Framework Plan, and is therefore within a

‘Cumulative Area of Control’ and therefore the policies and height limitations as set out in Section 4.8 of the Building Height Strategy do not apply to this site, in my view. I acknowledge that there is some overlap graphically of the two areas (the Dun Laoghaire Area and the Coastal Zone Area– as indicated in the Coastal Fringe Zone 500m Buffer). However the overriding factor in my view is the clear view of the Planning Authority on this issue and that the site is within the boundaries of the Dun Laoghaire Urban Framework Plan, and is therefore within a ‘Cumulative Area of Control’. This, in my view, precludes the application of the criteria set out in the Section 4.8 ‘Policy for Residual Suburban Areas not included within Cumulative Areas of Control’.

10.14.8. In relation to the Urban Framework Plan, this document does not set out height limitations generally or specifically in relation to this site (identified as an opportunity site). As such I am not of the view that the proposal represents a material contravention of same.

Unit Mix

10.14.9. The Material Contravention Statement states that the proposal may be considered to be a material contravention of the Development Plan as relates to Dwelling Mix. The Planning Authority has not raised concerns in relation to the mix of units provided, and is not of the view that the proposed dwelling mix is a material contravention of their Development Plan.

10.14.10. In relation to dwelling mix, Section 8.2.3.3(iv) of the Development Plan, states that 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. The proposed development is comprised of 34 x studio units (23%), 77 x 1 bed units (53%) and 35 no. 2 bed units (24%). As such the proposal is not in compliance with these standards. However, the Advisory Note prefacing Chapter 8 of the Development Plan states that the ‘Specific Planning Policy Requirements’ set out in the Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan. The Development Plan therefore makes it explicitly clear therefore any relevant SPPRs will supersede any related standard as set out in Chapter 8 of the Development Plan. In this regard I note that SPPR 8 of the Apartment Guidelines (2020) state that there is no restrictions on the mix for BTR

schemes. The proposals are therefore compliant with SPPR 8 of the Apartment Guidelines. I am not of the view, therefore, that the proposed development represents a material contravention of the Development Plan, as relates to Dwelling Mix and given that the proposals are in line with the Apartments Guidelines I am satisfied that the mix proposed in this instance is acceptable.

Residential Density

10.14.11. The proposed net density is 474 units/ha.

10.14.12. The Material Contravention Statement states that the proposal gives rise to a Material Contravention of the Development Plan in respect of residential density, and reference made to Section 2.1.3.3 of the Development Plan which states

“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...”

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

10.14.13. Reference is also made to Section 8.2.3.2 of the Development Plan which Section 8.2.3.2 (ii) of the Development Plan which refers to residential density, and states *inter alia* that in general, the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (2009).

10.14.14. The Material Contravention Statement refers Policy Res 5 ‘Institutional Lands’ which set out a density limit of 35-50 units/ha on such lands. There is no evidence within the application documents, from the Planning Authority, nor from Observer submissions that the lands are, or were, institutional lands, and as such I am not of the view that Policy Res 5 is applicable in this instance.

10.14.15. Dun Laoghaire Rathdown County Development Plan 2016-2022, Policy RES 3 Residential Density states:

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

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

10.14.16. Policy RES4: Existing Housing Stock and Densification:

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

10.14.17. The Planning Authority have not stated that the proposed density materially contravenes any aspect of their Development. Observer submissions have stated that the proposal materially contravenes the Development Plan in relation to *inter alia* density.

10.14.18. I note that there is no specific density limit specified in the Development Plan that pertains to this site. Densities of over 50 units/ha will be encourages within 1km of a rail station. This site lies within 300m of Salthill & Monkstown DART Station, Reference is made with the Material Contravention Statement to Section 8.2.3.2 states number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). As discussed in detail in Section 10.2 of this report, I am satisfied that the proposed density is, in principle, in line with the density allowed by 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities', states that a minimum net density of 50 units/ha should be applied within 'Public Transport Corridors', within which the site lies. No maximum density is set out in these guidelines for such 'Public Transport Corridors'. As such it is my view that the proposal does not materially contravene the Development Plan, as relates to density.

Car Parking

- 10.14.19. The Material Contravention Statement sets out that the proposal of 0.3 spaces per unit material contravenes the parking standards as set out in Section 8.2.4.5 and Table 8.2.3 of the Development.
- 10.14.20. The Planning Authority have not stated that the proposal is a material contravention of the parking standards of their Development Plan, although it is set out in their submission that the proposed parking quantum is too low. Observer submissions have also contended that the proposed parking is insufficient but it is not stated that the parking quantum proposed represents a material contravention of the Development Plan.
- 10.14.21. I have considered the issue of car parking, and the application of parking standards, in Section 10.8 of this report, and refer the Board to same. I have concluded in this section that the parking provision does not represent a material contravention of the plan, given the flexibility allowed within the plan which allows for reduced parking provision depending on the location and accessibility, the nature of surrounding areas and the nature of the proposed development under consideration.

Private Open Space

- 10.14.22. The Material Contravention Statement refers to Section 8.2.8.4 (iv) and Table 8.2.5 of the Development Plan which refers to a requirement of 6 sq. m and 8 sq. m., for 1 and 2 bed units, respectively. It is set out that as 16 no. units do not have private balconies, and notwithstanding some flexibility within the Development Plan as relates to provision of private open space within urban areas, the proposed development materially contravenes the Development Plan as relates to private open space provision.
- 10.14.23. The Planning Authority have not stated that the proposal represents a material contravention of their plan, as relates to private open space, although have raised concerns in relation to private open space provision. Observer submissions have not stated the proposal represents a material contravention of the Development Plan, as relates to private open space, although again concerns are raised in relation to private open space provision.
- 10.14.24. I have considered the issue of Private Open Space in Section 10.6 above, and I have concluded that the proposal does not represent a Material Contravention of the Development Plan, given that the Advisory Note prefacing Chapter 8 of the Plan noting that any relevant SPPRs in the Apartment Guideline will take precedent

over the standards set out in Section 8.2.3.3 of the Plan. In this instance SPPR 8 (ii) of the Apartment Guidelines allows for flexibility in private open space provision, as relates to BTR proposals.

Dual Aspect

10.14.25. The Material Contravention Statement refers to Section 16.3.3 of the Development Plan and quotes from same '*Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments, and no single aspect units should be north facing.*' This appears to be an error in that there is no Section 16.3.3 of the Development Plan and the wording that is in the Development Plan is not as per above.

10.14.26. Section 8.2.3.3 (ii) 'Dual Aspect' of the Development Plan states that *inter alia* *Apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances.*

10.14.27. I have considered the issue of Dual Aspect in detail in Section 10.6 of this report. I am not of the view the proposal represents a material contravention of the Development Plan for reasons set out therein.

Transitional Zones

10.14.28. The Material Contravention Sets out that the proposed development may be interpreted to be a material contravention of Section 8.3.2 of the Plan 'Transitional Zonal Areas' of the Development Plan, which states the following

"The maps of the County Development Plan show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting 'residential areas' or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties particular attention must

be paid to the use, scale and density of development proposals in order to protect the amenity of surrounding residential properties'

10.14.29. I have considered how the proposal complies with the above provision of the Development Plan in Section 10.5, and I refer to the Board to same. Having regard to my conclusions therein, I am not of the view the proposal represents a material contravention of the Development Plan, as relates to Transitional Zonal Areas'.

SLO 153 Specific Local Objective 153 (The retention of The Dunleary House/Yellow Brick House and boundary)

10.14.30. Specific Local Objective Specific Local Objective 153 of the Development Plan relates to the site and states that *'Dun Leary House (Yellow Brick House) and associated boundary be retained in situ and renovated'*

10.14.31. The Material Contravention Statement sets out that it is the applicant's view that the works accord with the above objective but it could be interpreted that the proposal materially contravenes same.

10.14.32. The Planning Authority is of the view that the proposal is contrary to the above objective but have not stated it is a material contravention of same. Observer submissions have expressed similar concerns but have not stated it is a material contravention of same.

10.14.33. I have set out my considerations of SLO 153 in Section 10.4 above, and having regard to the conclusions therein, I am of the view that the proposal is contrary to the above objective. I am not of the view that the contravention can be classed a 'material contravention' however, given that the proposal does not involve the complete removal/demolition of Dunleary House and it is further noted that the associated boundaries to the house are being retained under the current proposal.

11.0 Environmental Impact Assessment (EIA) Screening

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

- Construction of more than 500 dwelling units

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

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

- 11.1.2. Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 11.1.3. It is proposed to demolish a shed and to construct of 146 no. Build to Rent apartments and associated site works. The number of residential units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.559 ha and hence falls below the area threshold that applies to a business district and that applies to other areas. There is an existing former residential structure on the site (Dunleary House) which is a proposed Protected Structure, as well as a shed structure. The remainder of the site is cleared of development. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site itself is not designated for the protection of the landscape or of natural or cultural heritage. An AA Screening Report has been submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives and I concur with the conclusions of same. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dun Laoghaire Rathdown County Council upon which its effects would be marginal.
- 11.1.4. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact

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

- Bat Assessment
- Screening Report for Appropriate Assessment
- Environmental Assessment and Waste Classification
- Stage 1 Quality Audit
- Traffic and Transport Assessment Report
- Infrastructure Design Report
- Construction & Demolition Waste Management Plan
- Operational Waste Management Plan
- Preliminary Construction Management Plan
- Energy & Sustainability Report
- Site Specific Flood Risk Assessment
- Archaeology and Cultural Heritage Report
- Landscape and Visual Impact Appraisal
- Housing Demand Report
- Architectural Heritage Impact Assessment
- Mobility Management Plan

- Parking Strategy Report
- Daylight Sunlight Report
- Community Infrastructure Statement
- Telecommunications Report
- Lighting Analysis
- Statement of Response to An Bord Pleanála Opinion
- Material Contravention Statement
- Ground Investigation Report
- Environmental Impact Assessment Screening Report
- Ecological Impact Statement
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C)
- Stormwater Audit Stage 1
- Verified Views
- Housing Quality Assessment
- Architectural Design Statement
- Outward Noise Impact Assessment
- Part V Provision Report
- Property Management Strategy Report
- Planning Report
- Building Lifecycle Report
- Pedestrian Wind Comfort Study
- Dual Aspect in Residential Development
- Statement of Consistency
- Landscape Design Statement

11.1.5. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of

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

- An Appropriate Assessment Screening Report, a Landscape Design Statement and an Ecological Impact Assessment Report have been submitted with the application, in support of the Habitats Directive (92/43/EEC).
- An Appropriate Assessment Screening Report, an Ecological Impact Assessment Report, a Site Specific Flood Risk Assessment, a Preliminary Construction Management Plan and a Construction and Demolition Waste Management Plan have been submitted, in support of the Water Framework Directive (2000/60/EC).
- An Environmental Impact Assessment Screening Report, a Statement of Consistency and a Material Contravention Statement, in support of the SEA Directive (2001/42/EC)
- A Preliminary Construction Management Plan and an Outward Noise Impact Assessment have been submitted, in support of the Environmental Noise Directive (2002/49/EC)
- A Preliminary Construction Management Plan and a Traffic and Transport Assessment Report, in support of the Clean Air for Europe (CAFE) Directive (Directive 2008/50/EC).
- A Site Specific Flood Risk Assessment have been submitted, which was undertaken in response to the EU Floods Directive (2007/60/EC).

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

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

- An Preliminary Construction Management Plan and an Outward Noise Impact Assessment has been submitted, in support of the Directive 2000/14/EC on noise emission by equipment for use outdoors;
- An Energy and Sustainability Report has been submitted, in support of Directive 2012/27/EU on energy efficiency, in support of Regulation EU 2018/842 relating to Greenhouse Gas emissions and in support of Directive EU 2018/2001 on the use of energy from renewable sources

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

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

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

12.0 Appropriate Assessment

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

Compliance with Article 6(3) of the Habitats Directive

- 12.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 12.1.3. The applicant has submitted an Appropriate Assessment Screening Report as part of the planning application. The Screening Report has been prepared by Openfield Ecological Services and is supported by an Ecological Impact Assessment (EclA) prepared by the same author.
- 12.1.4. The Report provides a description of the proposed development which is as described in Section 3 of this report.
- 12.1.5. The Screening Report notes that the site is not located within any Natura 2000 sites (SAC or SPA) but is close to two such areas (South Dublin Bay SAC and South Dublin Bay and River Tolka SPA).
- 12.1.6. Site surveys were carried out on the 19th June 2019 and 13th July 2021. Habitats on the site are predemonintaly buildings and artificial surfaces – BL3 with some minimal vegetation which provide habitats of very low biodiversity value. It is noted that there are no habitats which are examples of those listed in Annex II of the Habitats Directive. There are no water course, bodies of open water or habitats which could be considered wetlands. It is stated that the habitats on site are not suitable for

regularly occurring populations of wetland/wading/wintering birds which may be qualifying interests of Natura 2000 sites in Dublin Bay.

- 12.1.7. In relation to foul water proposals, foul water from the site will be sent to the wastewater treatment plant at Ringsend via the local sewerage system. Compliance issues at this WWTP are noted and it is noted that emissions from the plant are currently not in compliance with the Urban Wastewater Treatment Directive. However upgrade works, due to be completed in 2022, will see improved treatment standards and will increase network capacity by 50%. It is further set out that there is no evidence that operations from the WWTP are affecting the conservation objectives of the European Sites in Dublin Bay.
- 12.1.8. In relation to surface water proposals, it is set out within the report (and described in detail in Section 10.9 of this report) that a new surface water drainage system is to be installed which will be separate from the foul sewer. It has been designed on the basis of SUDS principles, with storage in the form of an attenuation tank. The drainage system will result in a net improvement to surface water run off characteristics given the existing site is predominantly comprised of hard standing. It is set out that this approach is a standard measure in all development applications and it is not included here to avoid or reduce an effect to any Natura 2000 site. Water supply from the site is via the main supply.
- 12.1.9. The Screening Report sets out that there are 16 number Natura 2000 sites within a 15km radius of the site and notes same with a detailed description of each. The sites within this 15km radius are as follows:
- Baldoyle Bay SAC (000199) C11 km north
 - Baldoyle Bay SPA (004016) C11km north
 - North Bull Island SPA (004006) C6.5km north
 - North Dublin Bay SAC (000206) C6.5km north
 - South Dublin Bay and River Tolka Estuary SPA (004024) c200m north
 - South Dublin Bay SAC (000210) c200m north
 - Howth Head Coast SAC (000202) C8.5km north-east
 - Howth Head Coast SPA (004113) c8.5km north-east

- Rockabill to Dalkey Island SAC (003000) C8km east
- Dalkey Islands SPA (004172) C4.5km south-east
- Ireland's Eye SPA (004117) c13km north-east
- Knocksink Wood SAC (000725) C10km south-west
- Ballyman Glen SAC (00713) 9km south
- Wicklow Mountains SAC (002122) C11km south-west
- Wicklow Mountains SPA (004040) C11km south-west
- Bray Head SAC (00714) 14km south-east

12.1.10. Impact pathways were then analysed. It is set out that there is no direct natural hydrological connection from the development site to Dublin Bay or any other Natura 2000 site. It is noted that there is an indirect pathway to Dublin Bay through the foul sewer which includes significant dilution on route to the Ringsend WWTP. There is also an indirect path to Dublin Bay from surface water run-off via the surface water sewer. It is concluded that there is no direct or indirect, terrestrial or hydrological pathway to any other Natura 2000 site.

12.1.11. The AA screening report concludes that the application, whether individually or in combination with other plans and projects, will have no impacts upon this site, nor any of the other Natura 2000 sites. As such the application does proceed to Stage 2 of the Appropriate Assessment process.

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

Need for Stage 1 AA Screening

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

whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Development

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

Site Description

12.1.15. The site description is as per Section 2 of this report and the habitats on site are as described in the applicants Screening Report as well as the EclA submitted with the application (as per 10.9 of this report).

Submissions and Observations

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

12.1.17. An Observer submission has stated that the information provided by the applicant contains lacunae and is not based on appropriate scientific expertise and that the proposed development does not comply with the requirements of the PDA 2000 (as amended) and does not comply with the requirements of the Habitats Directive

Zone of Influence

12.2. A summary of the 16 no. European Sites that occur within a 15km radius of the proposed development is presented in the AA Screening Report. I have set out a summary of same below in Table 1 below

Table 1

Site (site code)	Distance from site	Qualifying Interests	Conservation Objectives;
South Dublin Bay and River Tolka Estuary SPA (004024)	c200m north-east	Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain or restore the favourable conservation condition of the bird species and

		<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>	habitats listed as Special Conservation Interests for this SPA.
South Dublin Bay SAC (000210)	c200m north-east	Mudflats and sandflats not covered by seawater at low tide [1140].	To maintain the favourable conservation condition of the

		<p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	<p>Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Dalkey Islands SPA (004172)	c4.5km east	<p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
North Bull Island SPA (004006)	c6.5km north	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>	<p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.</p>

		<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
North Dublin Bay SAC (000206)	c6.5km north	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

		<p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	
Rockabill to Dalkey Island SAC (003000)	C4.4km east	<p>Reefs [1170]</p> <p>Harbour Porpoise (Phocoena phocoena) [1351]</p>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Ballyman Glen SAC (00713)	9km south	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7320]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex

			II species for which the SAC has been selected
Knocksink Wood SAC (000725)	C10km south-west	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Wicklow Mountains SAC (002122)	C11km south-west	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous</p>	To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.

		<p>substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [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 Ilex and Blechnum in the British Isles [91A0]</p> <p>Otter (Lutra lutra) [1355]</p>	
Wicklow Mountains SPA (004040)	C11km south-west	<p>Merlin (Falco columbarius) [A098]</p> <p>Peregrine (Falco peregrinus) [A103]</p>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Howth Head Coast SAC (000202)	C8.5km north-east	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	To maintain or restore the favourable conservation condition of the

		European dry heaths [4030]	bird species listed as Special Conservation Interests for this SPA.
Bray Head SAC (00714)	14km south-east	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]	To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.
Howth Head Coast SPA (004113)	c8.5km north- east	A188] Kittiwake (<i>Rissa tridactyla</i>)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Baldoyle Bay SAC (000199)	c11 km north	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

		Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	
Baldoye Bay SPA (004016)	c11km north	<p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.
Ireland's Eye SPA (004117)	13 km north-east	<p>[A017] Cormorant (<i>Phalacrocorax carbo</i>)</p> <p>[A184] Herring Gull (<i>Larus argentatus</i>)</p> <p>[A188] Kittiwake (<i>Rissa tridactyla</i>)</p> <p>[A199] Guillemot (<i>Uria aalge</i>)</p> <p>[A200] Razorbill (<i>Alca torda</i>)</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Ireland's Eye SAC (002193)	14.6km north-east	[1220] Perennial Vegetation of Stony Banks	To maintain the favourable conservation condition of Perennial

		[1230] Vegetated Sea Cliffs	<p>vegetation of stony banks</p> <p>. in Ireland's Eye SAC; To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts in Ireland's Eye SAC</p>
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12.3. The specific qualifying interests and conservation objectives of the above sites are described in Table 1 above. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by the Planning Authority, Prescribed Bodies and observers, and I have also visited the site.

12.3.1. In terms of determining the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, I am of the view that the arbitrary use of the 15km radius is not necessary to determine a zone of Influence, but rather identification of possible impact pathways should determine same. I am of the view that the only sites that are within the 'zone of influence' of the proposed development are those sites in or associated with Dublin Bay due to connections via surface water drainage, and foul water discharge via the Ringsend WWTP, and those sites with a potential groundwater connections, which include the Wicklow Mountains SAC (002122), Wicklow Mountains SPA (004040), Bray Head SAC (000714), Knocksink Wood (SAC) and Glen of the Downs SAC (000719) by virtue of being wholly or partly within the same groundwater body (Wicklow

Groundwater Body).¹ There are no other evident impact pathways, noting in particular the lack of habitats on the site for any species of conservation interest associated with any European Site and the lack of habitat suitable for any birds of special conservation interest associated with any European Site. I note the Screening Report has not considered the issue of bird strike, nor has this been considered in any the EclA. The Statement of Consistency submitted with the application notes that *'the appointed ecologists, Openfield have confirmed that the matter of collision for bird or bat species is not a significant phenomenon known in Ireland in terms of the buildings of the height proposed. For this reason, the potential impact of height is not addressed in the Ecology Reports submitted'*. In relation to same, I note the site's proximity to the South Dublin Bay and River Tolka Estuary SPA some 200m north of the site, and given this proximity the site could be considered a sensitive site. However, there is no evidence on file that the height of the buildings at a maximum of 8 storeys would pose a danger in relation to bird strike and the heights proposed are not significantly higher than those to the immediate east, at Clearwater Cove. I also noted that the site itself, as existing, is not deemed to represent suitable *ex-situ* feeding/roosting habitat for any species associated with a Natura 2000 site.

- 12.3.2. While the location of the surface water outfall is not specifically indicated in the application documents, it is indicated that the eventual outfall is to Dublin Bay, and I accept that this is likely to be the case. The foul water discharge from the site is treated at Ringsend WWTP which discharges into Dublin Bay (at the point of the River Liffey Estuary). The surface water and foul water proposals provide indirect hydrological connections from the site to Dublin Bay Natura 2000 sites. The indirect hydrological connection of key relevance is that relating to the Natura 2000 Sites in the vicinity of Dublin Bay (that is North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)). It is reasonable to assume that, where the water quality and the conservation objectives of the European sites immediately proximate to Dublin Bay (ie North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)) are unaffected by the proposed development, having regard to the source

¹ Source: <https://gis.epa.ie/EPAMaps/>

pathway model, the conservation objectives of those European sites at a greater distance would also be unaffected.

- 12.3.3. I am not of the view that there is a direct pathway for surface water, at construction stage, to flow from the site directly to the nearest Natura sites, South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210), having regard to the distance to same which is some 200m from the site. Nor is there potential for surface water at construction stage to flow into the nearest coastal waterbody which is 75m from the site and is separated from the site by a number of roads, footpaths and a rail line.
- 12.3.4. Specifically in relation to potential hydrogeological impacts, I note Screening Report has not considered same. However, the proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels or impacts on groundwater generally. I also note the distance to the nearest SAC with groundwater dependant habitats (Ballyman Glen SAC (00713) which is approximately 9km from the site. As per the reasoning above, it is reasonable to assume that, where the groundwater water quality of the nearest SAC with groundwater dependant habitats (Ballyman Glen SAC (00713) is unaffected by the proposed development, having regard to the source pathway model, the conservation objectives of those European sites, which also are within the same groundwater body, but at a greater distance would also be unaffected.
- 12.3.5. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. The proposed site does not support populations of any fauna species links with the qualifying interest or special conservation interests of any European Site. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or nor will it result in a loss of any ex-situ foraging or roosting site for qualifying species of European sites in the wider area.
- 12.3.6. In relation to other sites, I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.
- 12.3.7. Those sites which I have concluded lie within the 'Zone of Influence' of the proposed development relevant sites are set out below:

- **North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)** - Potential impacts have been identified from surface water run-off during operation and from operational wastewater discharges.
- **Ballyman Glen SAC (00713)** - A potential impact has been identified as Ballyman Glen SAC is located in the same groundwater body as the site (the Wicklow Groundwater Body) and the site is designated in part for a groundwater dependant habitat (Petrifying springs with tufa formation).

12.3.8. The species of qualifying interest/special conservation interest, and the conservation objectives of the above sites are set out in Table 1 above.

Assessment of Likely Significant Effects

Surface Water

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

12.3.10. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the Infrastructure Design Report and the Site Specific Flood Risk Assessment will serve to limit the quantity and improve the quality of surface water runoff. These include SuDS measures to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the

occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. As such, I am satisfied proposed surface water measures at operational stage will be sufficient so as not to result in any likely significant effects on any Natura 2000 site within Dublin Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter Dublin Bay, I am of the view that any such contaminants would be sufficiently dispersed and diluted within the marine environment of Dublin Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Dublin Bay can be ruled out.

Foul Water

In relation to foul water impacts, I note that Irish Water have not raised any issues as relates to constraints on the capacity of the Ringsend WWTP although capacity issues are highlighted within the Screening Report, with such issues intended to be addressed by 2022. In relation to same, the Screening Report notes that the discharge from the WWTP is having an observable effect in the 'near-field of the discharge' which includes the inner Liffey Estuary and the Tolka Estuary but not the coastal waters of Dublin Bay, indicating that the potential effects arising from the treatment plant are confined to these areas and that the zone of influence does not extend to the coastal waters or the Irish Sea. Significant effects on the Natura 2000 sites in Dublin Bay are ruled out. I am satisfied then, given the information contained in the Screening Report that the proposed development will not result in significant water quality issues in Dublin Bay and I am satisfied that likely Significant effects on the Natura 2000 sites in Dublin Bay as a result of foul water discharge from this site can be are ruled out.

Hydrogeological Impacts (Groundwater)

- 12.3.11. I note that the proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels. I note also distance between the proposed development and the nearest European Site with groundwater dependant habitats (c8km), with this distance serving to further reduce the likelihood of impacts, by virtue of the dilution effect, which would serve to limit

any potential effects resulting from pollutants entering the groundwater. It is concluded that no significant effects are anticipated as a result of the proposed development. Given the nature of the proposal, which does not result in an alteration of groundwater levels, and given the distance to the nearest European Site with groundwater dependant habitats (c8km) I am satisfied that that any pollutants would be sufficiently dispersed and diluted if they were to reach the site.

In-Combination impacts with other proposed/existing developments

12.3.12. In relation to potential in-combination impacts, I note that project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Ringsend WWTP. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, and in this area, by the Dun Laoghaire Rathdown Development Plan 2016-2022. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development of 146 residential units. The site is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

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

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

AA Screening Conclusion

12.3.15. Having regard to the considerations above, it is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on North Bull Island SPA (004006), North Dublin Bay SAC (000206), South

Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) or on Ballyman Glen SAC (00713), or any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

13.0 Conclusion and Recommendation

Having regard to the above assessment, I recommend that section 9(4)(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 be applied and that permission be **REFUSED** for the proposed development for the reasons and considerations set out below.

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dun Laoghaire-Rathdown County Council

- 14.1.1. Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 26th Day of November 2021 by Ted Living Limited care of Brock McClure Planning and Development Consultants, 63 York Road Dun Laoghaire A96 T0H4.

Proposed Development:

The development will consist of the construction of a new development of 146 no. units (34 no. studio apartment units, 77 no. 1 bed apartment units and 35 no. 2 bed apartment units), and associated ancillary residential tenant amenities (c.468 m²) including a gym, atrium/reception area and skylounge. A retail unit (c.290m²) addressing Old Dun Leary Road and Cumberland Street is also proposed. It is proposed to adapt and incorporate an existing 4 storey building "DunLeary House"(a proposed Protected Structure) on site into the development to provide co-working office suites (c.247m²). The proposed development has overall heights ranging from 6 storeys (with set backs from 4th & 5th storey) addressing Dun Leary Hill, to 5 and 8 storeys (with set back from 7th storey) addressing Old Dun Leary Road and 6-7 storeys (with set backs at 8th storey) addressing Cumberland Street.

Extensive residential amenity facilities are proposed (with a combined area c.468 m²) including a: gym and associated ancillary facilities at level 01G (c.120 sqm), multi-functional atrium/reception amenity areas at level 01G (c.251 m²); residential amenity (sky lounge facility approximately 97 sqm) with external terrace at level 7.

Private open space for the apartment units is proposed by way of balconies and shared landscaped terraces. Communal open space is provided in the form of a landscaped courtyard including a play area (c.482 m²) and landscaped roof terraces and external areas (c.392m² overall) with visibility from public areas

A part double height retail unit (c.290 sqm) addressing Old Dun Leary Road and the corner of Cumberland Street. 1 no. signage zone (c.6675mm x c.640mm;) on the façade addressing Old Dun Leary Road; 1 no. signage zone addressing corner Old Dun Leary Road and Cumberland Street (c.800mm x 6000mm) and 2 no. signage zones (1 no. backlit horizontal sign (c. 6000 mm x 700mm) and 1 no. backlit vertical sign (c.5160mm x 800mm) along Cumberland Street main entrance.

The refurbishment, partial removal and adaptation of a 4 storey building on site known as “DunLeary House” (a proposed Protected Structure) to provide co-working office suites (c.247m²) at Levels 01,02 and 03. The works will include partial removal of original walls and floors, removal of non original extensions to DunLeary House, repointing and repair of brickwork and granite fabric, reinstatement of timber sash windows, removal of existing roof, removal; alteration and reinstatement of internal floor layouts, reinstatement of entrance point on DunLeary Hill, removal of non original level 00 and linking the existing building to the new development from level 00 to level 03 with the construction of 3 new floors of development (with set back at roof level) above the existing building. It is proposed to repair, reinstate and improve the existing boundary treatment to DunLeary House.

Provision of 52 no. car parking spaces in total - 44 no. car parking spaces provided at level 00. At Cumberland Street 11 no. existing on street car parking spaces will be removed and 8 no. on street car parking spaces provided. Provision of 277 bicycle parking spaces (94 no. cycle parking spaces accommodated in bicycle stands and 183 no. long term bicycle parking spaces within a secure storage area) and 4 no. motorbike parking spaces, all at Level 00. Level 00 will be accessed via a new gated vehicular entrance and gated dedicated bicycle path off Old Dun Leary Road.

All associated ancillary plant areas/switch rooms/ESB substation/waste management/storage areas to be provided at level 00, with provision of green roofs (c. 1,157m².) at roof areas on levels 01, 06,07 and 08.

Significant Public Realm improvements including the provision of footpath upgrades, a signalised junction on Old Dun Leary Road and Cumberland Street including pedestrian crossings on all arms, landscaping and 32 no. bicycle parking spaces (located to the front of the proposed retail unit and at the corner of Cumberland Street), the inclusion of car parking spaces (as referenced above) on Cumberland Street and new public lighting.

All associated ancillary site development works including:

- Demolition of open fronted shed (371.7m²) located at the north eastern corner of the site with works including replacement of part of the boundary wall adjoining Clearwater Cove.
- all associated landscape and boundary treatment proposals
- all associated ancillary water and drainage works (including the diversion of existing sewer at Cumberland Street)

Decision

Refuse 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

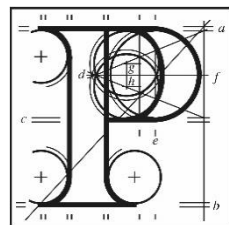
Having regard to the extensive works proposed to Dunleary House, a proposed Protected Structure, including the extensive removal of original fabric internally and the removal of the roof form, the Board is of the view that the proposals essentially involve partial façade retention. The Board is not of the view that the existing structure has been redeveloped internally to such an extent so as to justify partially

façade retention only. Furthermore, it is considered that the three storey roof extension to the proposed Protected Structure would appear as a dominant and overbearing addition to the building, with subsequent negative impacts on the character and appearance of the structure, as well as resulting in significant negative impacts on the visual amenity of the area. The Board is also of the view that the proposed works to Dunleary House do not constitute renovation of the of the building, as required by Specific Local Objective 153 of the Dun Laoghaire-Rathdown Development Plan 2016-2022. As such the proposed development is contrary to guidance set out in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011) and is contrary to Specific Local Objective 153 of the Dun Laoghaire-Rathdown Development Plan 2016-2022.

Rónán O'Connor
Senior Planning Inspector

24th March 2022

Appendix A: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-312070-21
Development Summary		Demolition of shed, construction of 146 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 AA Screening Report has been submitted with the application

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	Please see Sections 11.1.5, 11.1.6 and 11.1.7 of Inspector's report for details of same.

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

1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The residential use and other uses proposed and the size and design of the proposed development would not be unusual in the context of this residential area.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such urban development. Development of this site will not result in any significant loss of natural resources or local biodiversity.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<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 and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>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 from the site to waters. The operational development will connect to mains water and drainage services. Irish Water have not cited any capacity constraints in relation to the foul water connection.</p>	<p>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. Lighting is designed to avoid overspill to adjoining lands</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>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site lies within Flood Zone C, with a subsequent low risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>

1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The zoning of the site allows for a residential led development and the development of this site has been foreseen by the Dun Laoghaire-Rathdown Development Plan 2016-2022, which has undergone an SEA and has been subject to a Strategic Flood Risk Assessment (SFRA). Other developments in the wider area are not considered to give rise to significant cumulative effects.	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: 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve	Yes	There are no conservation sites located on the site. An AA Screening Report has been submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the	No

<p>4. Designated refuge for flora or fauna</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>sites' Conservation Objectives and I concur with the conclusions of same.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>The site is not located within an Architectural Conservation Area. The former residential structure on the site (Dun Leary House) is a proposed Protected Structure. I am not supportive of the proposed works to this structures for the reasons as set out in the main body of this report, but I am not of the view that any subsequent impacts on cultural, historical, social or industrial heritage would be so significant so as to warrant the submission of an Environmental Impact Assessment Report.</p> <p>In addition I am not of the the view that there will be any negative impacts on any features of landscape or archaeological importance.</p>	<p>No</p>

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		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	There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site lies within Flood Zone C and the risk of flooding is concluded to be low.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion.	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 is no 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,
 - (c) The existing use on the site and pattern of development in surrounding area;
 - (d) The availability of mains water and wastewater services to serve the proposed development,
 - (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
 - (f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
 - (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
 - (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Infrastructure Design Report, the Construction & Demolition Waste Management Plan, the Operational Waste Management Plan, the Preliminary Construction Management Plan, the Site Specific Flood Risk Assessment, the Ground Investigation Report and the Landscape Design Statement,
- it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _____ **Ronan O'Connor**

Date: 24th March 2022