



An  
Bord  
Pleanála

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

### **Inspector's Addendum Report ABP-312070-21**

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#### **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**

28<sup>th</sup> February 2022

**Date of Oral Hearing**

22<sup>nd</sup> June 2022

**Inspector**

Rónán O'Connor

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## 1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the previous Inspector's report prepared in respect of the proposed strategic housing development ABP-312070-21, dated 24<sup>th</sup> March 2022. I would highlight to the Board that the operative development plan is now the Dun Laoghaire Rathdown Development Plan 2022-2028, whereas the previous report was completed when the operative development plan was the Dun Laoghaire Rathdown Development Plan 2016-2022. As such, where relevant to this application, I have assessed the proposed development against the policies and objectives of the now operative development plan, in Section 4 (Assessment) below.
- 1.2. Having regard to Section 18 of the Act, the Board decided that a limited agenda Oral Hearing should be held in relation to ABP-312070-21. Pursuant to Board Direction BD-010515-22 (dated 5<sup>th</sup> May 2022), an Oral Hearing was held on the 22<sup>nd</sup> June 2022 based on the following directed limited agenda:
- **Item 1.** While works of significance have been carried out internally to Dun Leary House in previous times, including the removal of the original staircase, it is considered that much of the original fabric and many of the rooms remain intact, the extent to which this original fabric could be sensitively retained and repurposed, including the reinstatement of some of the original features of the building, should be further elaborated upon.
  - **Item 2.** The applicant is requested to provide evidence of their consideration of a residential use within the protected structure, or an alternative commercial/office use, and whether such alternative uses/layout would allow for a greater retention of the original building.
  - **Item 3.** The proposed works to the proposed Protected Structure involve the removal of substantial elements of the form, and the introduction of extensions that have the potential to overwhelm the existing structure. The applicant is requested to provide further elaboration or justification in respect of the removal of the roof of the proposed Protected Structure, and the appropriateness (in full or in part) of the proposed three additional floors above, in particular having regard to the Development Plan Policy and Architectural Heritage Guidelines.

- 1.2.1. In relation to the agenda items above, I note that Dun Laoghaire House is now included in the Record of Protected Structures at Table 4.1 of Appendix 4 to the Dún Laoghaire-Rathdown County Development Plan 2022-2028.

## 2.0 Oral Hearing Report

- 2.1.1. This is a report on the conduct of the Oral Hearing that took place on Wednesday 22<sup>nd</sup> June 2022. A complete recording of the Oral Hearing is available for the Board's consideration and is attached to the file.

- 2.1.2. An Oral Hearing was held on-line via Microsoft Teams, commencing at 10.00am on Wednesday 22<sup>nd</sup> March 2022 and finishing at approx. 12pm on 22<sup>nd</sup> March 2022. The following parties were represented at the hearing:

**Applicants** Suzanne McClure (Brock McClure Planning Consultants); Sam Bewley (Brock McClure Planning Consultants); Ralph Bingham (MOLA Architecture); Sinead Hughes (MOLA Architecture); Brendan Slattery (McCann Fitzgerald); James Slattery (Slattery Conservation); Patrick Field (OCSC); Steve Cassidy (Ardstone); Michael Gallagher (Ardstone); Ada Dunne (Ardstone); Tracy Kearney (DBFL)

**Planning Authority** - Dun Laoghaire Rathdown County Council was represented by Mr. Liam Walsh (Senior Planner), Mr. Dara Holohan (Senior Executive Planner), and Ms Julie Craig (Conservation Officer).

**Observers** - Melisa Halpin (Councillor); Victor Boyhan (Senator); Chris Doorly; Brian Coughlan (Cove Management Company); Orla Hogan (Cove Management Company);

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

1. Victor Boyhan (Senator)
2. Melisa Halpin (Councillor)
3. Chris Doorly

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

1. Brian Coughlan (on behalf of the Residents of Clearwater Cove)

## **2.2. Opening Statement**

- 2.2.1. The Hearing opened at 10am on Wednesday 22<sup>nd</sup> June and I made an opening statement setting out relevant procedural aspects of the Hearing. I also read into the record a summary of an email submission received by An Bord Pleanála on 20<sup>th</sup> June 2022 from Dun Laoghaire-Rathdown County Council stating that the Conservation Officer, who had prepared a report on this application on behalf of the Council, lives in a residential development in close proximity to the application site. The email also notes the Resident's Association of the same residential development have made a submission on this application but the Conservation Officer is not a member of this Resident's Association. I thanked the Council for their transparency in this regard. This email is on file for the Board's consideration.

## **2.3. Submissions to the Hearing on behalf of the Applicant**

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

### **Statement of Evidence on behalf of the Applicant.**

- 2.3.2. Submissions were made by Suzanne McClure (Brock McClure Planning Consultants); Ralph Bingham (MOLA Architecture); Brendan Slattery (McCann Fitzgerald Solicitors).
- 2.3.3. The document titled 'TED Living Limited - Presentation prepared for An Bord Pleanála Oral Hearing 22nd June 2022' (a hard copy of which is on file) forms the basis for the applicant's verbal presentations, and I refer the Board to same, a hard copy of which is on file.
- 2.3.4. Section 1 'Introduction' of this document clarifies the nature of the document. Section 2 'Agenda' summarises the items on the Oral Hearing Agenda. Section 3 'Planning Context' sets out the context of the Protected Structure, Planning Precedent, previous Development Plans and preparation of the Draft Plan. Section 4 'Evolution of the Scheme as Lodged' sets out the site context, previous design at Stage 2 - Tripartite Stage and the design as lodged at application stage. Section 5 sets out the 3 no. items on the agenda and Section 6 'Scheme as Lodged' responds to same. Section 7 'Response to Agenda Items – Alternative Proposal' includes details of an

amended scheme for the Board's consideration that retains the full gable roof of the front façade and chimney stacks behind, and sets back the upper residential floors approximately 6m from their previous position. Internally, it is proposed to retain the majority of the existing fabric and to insert a new staircase, in the location of the originally missing stairs. Section 7 'Appendices' includes:

1. Schedule of Accommodation Updated Summary
2. Daylight and Sunlight Assessment
3. Conservation Statement – Supporting Materials
4. Material Contravention Statement

2.3.5. The following is a summary of the verbal presentations made on behalf of the applicant (made by Brendan Slattery, Ralph Bingham, Suzanne McClure and James Slattery):

- Accepted that the Structure is on the Record of Protected Structures'/The submitted document will give 'complete understanding of its inclusion on the Record of Protected Structures' and 'will be of assistance in understanding the significance and importance of the listing'/'have considered the Draft Ministerial Direction (in relation to the current Development Plan)/does not affect the RPS' 'Pending Legal Challenges to the Plan' 'None of these related to the RPS'
- In the original proposal the 'envelope of the building was to be retained'. In relation to the 'Alternative Proposal' – the feasibility of which is described in Chapter 7' 'Alternative proposal – is a proof of concept - how it might be assessed by reference to the agenda items'
- This section of town would have accommodated a lot of industrial uses' 'Of note is that the waterfront along the harbour' the waterfront along the harbour has significant density 'in conjunction with Protected Structures/Building as it stands has a lot of PVC windows/Most significant intervention in the least sensitive/Interior layout has been significantly altered/Roof has already been significantly altered/no structural elements of interest/'while the removal of a roof in its entirety is not always considered appropriate, in this former industrial context, and given the negligible significance of fabric and form and level of modern alterations to the roof, this was considered an appropriate proposal.



- Interior is a very modest space/images given an idea of the quality of the internal spaces, which is quite ordinary/Both residential and office use were considered/looked at opening up of the plan to provide more generous uses
- Chapter 7 of the submission document 'Addresses the feasibility of an alternative in circumstances wherein ABP considers amendments to be necessary/Alternative proposal retains the entire internal and external wall fabric/increase in the number of 2 bed units'

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

2.4.1. The following is summary of the verbal presentations made by Dun Laoghaire Rathdown County Council

- SLO 37 relates to the site/ Previous SLO 153 was slightly more limited in nature
- Is now a Protected Structure
- Neighbourhood Centre Zoning – how does the alternative residential use sit with the Neighbourhood centre Zoning on the site
- There is some merit in some of the proposals
- Welcome proposals to keep more of the fabric
- Still have some concerns in relation to the additions on the upper floors.
- If it was the residential use proposed PA would have concerns in relation to the neighbourhood centre zoning
- No opportunity to consider impacts an alternative use within the Protected Structure (i.e. Residential within the Protected Structure)
- There is more of the original roof on the other site/don't see why this couldn't be kept
- Having regard to the separation form the Protected Structure – doesn't go far enough

## **2.5. Observer Submissions**

2.5.1. The observer verbal submissions are summarised hereunder. A copy of any written submissions are available on file.

Senator Boyhan

- Former County Cllr – extremely familiar with the building
- The Building's Roof lines have not changed since the mid 60's on
- Buildings evolve.
- Member of the Joint Committee on Housing, Local Government and Heritage/Member of An Taisce
- Want to thank the applicant for setting out comprehensively the scheme
- Elected Members are elected – 38 of 40 voted to add this to the RPS/Draw on professional advice/also draw on external expertise.
- Power of the Elected Member – guardian of the Development Plan – took a decision that this will be a Protected Structure.
- Architectural Heritage Guidelines – should not lose sight of the curtilage – not seen a major improvement – building should stand-alone- significant in terms of commercial – has many aspects of heritage – social.
- Specific Local Objective– be retained in situ and renovated – now a stronger SLO in place. Have to deal with the zoning- affords a greater degree of development – would have preferred a greater mix of uses.
- Why couldn't the commercial aspects be put into this building
- Context of this particular site – surrounding by ACAs – look at the height of the building – site cannot support the high density proposed by the scheme.
- Will impact on the residential amenity of surrounding developments.
- Not sufficient consideration of the curtilage
- Welcome that the building is to be restored and reused
- Conditions in relation to work on the Protected Structure should take precedence.
- Should be able to read the east elevation.
- Works to the Protected Structure should be carried out in advance of any other work.
- Both schemes are overdevelopment of the site
- Exceptionally sensitive area.

- Could have a standalone building.
- Can keep the building and have a development that is appropriate to the neighbourhood centre
- Concerns of the Local Authority are valid
- Site has been an eyesore.
- Can be a resolution for all

#### Cllr. Halpin

- Agree with Senator Boyhan
- Both worked as Cllrs to try and ensure this building was protected
- Know the building well
- This area around the Yellow House is the old centre of Dun Laoghaire
- Has a strong heritage
- Is a marker of Dun Laoghaire
- Needs to be retained and developed
- Not against development on this site
- Has to be sensitive to the heritage and architecture of this site
- Cllrs take their role very seriously
- Want to see development on this site
- Site should retained structure and curtilage of this house
- Development is way more akin to the Tenters Pub in the Liberties
- A development that pays no attention to the curtilage that lifts the roof off and is basically a major over development
- Is not in line with the idea of minimum intervention
- Does not mark the entrance into Dun Laoghaire in any way
- Does not give it the respect it deserves
- Is overdevelopment of the site

- Proposed use as a co-working space – council have just recently disposed of the large ferry harbour terminal to be used as a co-working space

Chris Doorly

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

Verbal Submission

- Lives in De Vesca House
- Sensitive to the surrounding area
- House historically was a marker
- House is now dwarfed into insignificance
- Massive building dwarfs the listed boiling
- Building did not have a diminutive scale – situated at the top of the hill overlooking the industrial uses
- Nothing pleasing about the scale that is proposed overall

Written submission

- Dun Leary House should be able to stand alone and be visible even when integrated to the proposed development
- Building is clearly overwhelmed
- Example of developers greed maximising the site and the designers have clearly failed in retaining the House in a meaningful way along with the inappropriate scale of the overall proposal.
- As presented there is not much point in saving any of it as it is reduced to insignificance/need to prevent this from happening on the edge of this important conservation area.
- Other examples are in a completely different context, are not in an architecturally sensitive area and they do not remove the roof

Brian Coughlan (on behalf of Residents of Clearwater Cove)

- Revised Material Contravention Statement is deficient as it does not address why the proposals should be granted despite materially contravening Policy Objective HER8.
- It is not open to the Board to consider a grant of permission contrary to Policy Objective HER8 of the Development Plan.
- Issues raised in original submission stand and are taken as read.
- Have reviewed the applicant's submission to the Oral Hearing.
- Not considered that the Applicant has sufficiently justified the works to the Protected Structure.
- Failed to demonstrate that alternative uses such as an office use, has been fully considered for the site.
- Proposed development materially contravenes Policy Objective HER8 of the Development Plan as;
  - The proposed works would negatively impact the special character and appearance of the Protected Structure.
  - The proposed development would negatively impact on the setting of the Protected Structure and is not appropriate in terms of scale, mass, height, density or layout.
  - The relationship between the Protected Structure and the proposed development would harm the Protected Structure.
  - The proposed development (particularly the original scheme) would remove the interior, including the plan form, hierarchy of spaces, architectural detail, fixtures and fittings contrary to policy.
  - The proposed residential use would require significant alteration of the Protected Structure. More sensitive uses have not been fully considered.
  - The curtilage of the Protected Structure is proposed to be changed immeasurably through the imposition of an overpowering and dominating building.
- Proposal materially contravenes SLO 37 as it does not retain the building, fails to renovate it and fails to provide a suitable reuse of the building.

- While there is a shortage of housing, the harm to a Protected Structure contrary to the policies and objectives of the Development Plan is not of strategic or national importance.
- The Development Plan is clear in its protection of the Protected Structure.
- The EMRA RSES, guidelines under section 28, guidelines under section 29, the statutory obligations of the local authority, and Government policies do not provide justification for the harm to the Protected Structure proposed as part of this application.
- The pattern of development has not changed since the making of the Development Plan earlier this year.
- Considered that permission cannot be granted for this proposed development
- Considered that the alternative proposal is materially different from the application as submitted and has not been subject to the required public consultation.
- Should the alternative scheme be considered, the points raised above relative similarly to the revised scheme.
- Concern in relation to the missing appendices of the Conservation Architect's Report
- Impacts on the Protected Structure are as a consequence of the drive to maximise the number of units on site without much consideration for built development on the site or site context

## **2.6. Prescribed Bodies**

2.6.1. No further submissions were made.

## **2.7. Questioning**

### **2.7.1. Inspector Questions**

- Question in relation to any resultant reduction in co-working office space as a result of the alternative proposal put forward.
- Question in relation to the viability and marketability of the proposed co-working office space within the alternative proposal.

## **Applicant's Response**

- Small reduction in floor area – affects the flexibility of the space
- Pros and cons with having an open plan office and having the proposed cellular space
- Reduction in the office floorspace by approximately 5 sq. m.

### **2.8. Closing Submissions**

Closing statements were made by the following parties:

- Dun Laoghaire Rathdown
- The Applicant

2.8.1. The hearing closed at approx. 11:50pm on Tuesday 22<sup>nd</sup> June 2022.

## **3.0 Dun Laoghaire-Rathdown County Development Plan 2022 – 2028**

3.1.1. The Dun Laoghaire-Rathdown County Development Plan 2022 – 2028 is the current statutory plan for the Dun Laoghaire-Rathdown County area, and which includes the subject site. This plan was adopted by the elected members at a Special County Development Plan meeting held on the 10th of March 2022. The adopted Plan came into force 6 weeks after it was adopted on the 21st of April 2022<sup>1</sup>. I have set out below relevant policies and objectives that pertain to this site and proposed development.

### Zoning

As per Map 3 of the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028, the site is located on land zoned Objective NC - to protect, provide for and/or improve mixed-use neighbourhood centre facilities.

Specific Local Objective No. 37 applies to the site and this states:

*‘That Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building*

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<sup>1</sup> Save for those elements which were required to be deleted by way of a Ministerial Direction issued on 28<sup>th</sup> September 2022, which includes, but is not limited to, the second paragraph of Section 12.3.3 ‘Quantitative Standards for All Residential Development’ of Chapter 12 (pg. 236) of the Written Statement, which states: “That the requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix on page 237.”

*which makes a positive contribution to the character and appearance of the streetscape at this location’.*

Dunleary House is included on the Record of Protected Structures (RPS) as contained in Appendix 4: ‘Heritage Lists’ of the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028.

Relevant Policy Objectives pertinent to this application include:

- Policy Objective NPF1 – National Planning Framework; Policy Objective MASP1- Dublin Metropolitan Area Strategic Plan; Policy Objective RSES1- Regional Spatial and Economic Strategy;
- Policy Objective CA6: Retrofit and Reuse of Buildings
- Policy Objective PHP2: Sustainable Neighbourhood Infrastructure; Policy Objective PHP4: Villages and Neighbourhoods; Policy Objective PHP6: Childcare Facilities; Policy Objective PHP18: Residential Density; Policy Objective PHP20: Protection of Existing Residential Amenity; Policy Objective PHP25: ‘Housing for All – A new Housing Plan for Ireland, 2022’; Policy Objective PHP27: Housing Mix; Policy Objective PHP28: Build-to-Rent and Shared Accommodation/Co-living Developments; Policy Objective PHP35: Healthy Placemaking; Policy Objective PHP42: Building Design & Height; Policy Objective PHP43: Design in Local Area Plans; Policy Objective PHP44: Design Statements
- Policy Objective T17: Travel Plans; Policy Objective T19: Carparking Standards
- Policy Objective E11: Remote Working
- Policy Objective MFC1: Multifunctional Centres; Policy Objective MFC2: Accessible and Inclusive Multifunctional Centres
- Policy Objective RET7: Neighbourhood Centres; Policy Objective RET11: Active Street Frontages Non-Retail Uses
- Policy Objective GIB6: Views and Prospects
- Policy Objective OSR4: Public Open Space Standards
- Policy Objective EI4: Water Drainage Systems; Policy Objective EI6: Sustainable Drainage Systems; Policy Objective EI9: Drainage Impact Assessment



- Policy Objective HER8: Work to Protected Structures; Policy Objective HER9: Protected Structures Applications and Documentation; Policy Objective HER11: Energy Efficiency of Protected Structures

## Chapter 12 – Development Management

Relevant standards include, but are not limited to, the following:

Requirement for a Design Statement/12.1.1.3 – requirement for a Landscape Plan/12.2.1 ‘Built Environment’ – requirement for, *inter alia*, an Energy Statement; 12.3.3.2 ‘Residential Density’ ; 12.3.4.2 Habitable Rooms – states, *inter alia*, Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance); 12.3.4.4 Phased Development states that *inter alia* ‘when considering proposals for development within the curtilage of Protected Structures a proposed phasing agreement should be provided (refer to Section 12.11.2.3)’; Dual Aspect in Apartments – DLR as a County is classified as a suburban or intermediate location and therefore there shall generally be a minimum of 50% dual aspect apartments in a single scheme.; 12.3.5.3 Separation Between Blocks ;Internal Storage and External Storage; Minimum apartment floor areas; Additional Apartment Design Requirements; Build-to-Rent Accommodation ‘BTR accommodation will only be permitted in suitable locations in accordance with Policy Objective PHP28. BTR accommodation must comply with all apartment standards set out in Section 12.3.5’; 12.4.3 Travel Plans - In general, a Workplace Travel Plan is required if an existing or proposed development has the potential to employ over 100 persons when fully occupied. Travel Plans are required for all schools (as per Smarter Travel, the National Transport Policy) and for residential developments of 100 dwellings or more (Refer also to Appendix 3); Car Parking Standards 12.4.5.3 states, *inter alia*, For both residential and non-residential car parking,4% of car parking provision shall be suitable for use by disabled persons; 12.54.5.6 states, *inter alia*, For the purposes of the parking standards set out in Table 12.5 Built to Rent development are considered to be residential apartments. Table 12.5 sets out car parking standards. Those relevant to this proposal are::

Zone 2 near Public Transport:

- Apt 1 bed and Apt 2 bed – 1 per unit
- Apt 3 bed + - 2 per unit

- Office, Businesses, Professional – 1 per 150 sq. m (GFA)
- Retail Conv - <100 sq. m. – None
- Restaurant/Café/Bar/Lounge <100 sq m – None

#### 12.4.5 Cycle Parking

12.4.6.1 Requirements for New Development states, *inter alia*, it is a requirement that, new residential developments of 5 residential units or more or non-residential type developments of 400 sq.m. or over, submit a Cycle Audit as part of the planning application; Cycle Parking Assessment Criteria; 12.4.11 Electrically Operated Vehicles ; 12.8.3 Open Space Quantity for Residential Development - Those applicable to this proposed development include: Public Open Space - Table 12.8: Residential Development in the existing built up area - 15% (of site area); Communal Open Space Table 12.9 - Studio 4 sq. m; 1 bed 5 sq. m. Two Bed (3 persons) – 6 sq. m; Two bed (4 persons) – 7 sq. m; 3 bed 9 sq. m; Four + 12 sq. m. In very high density schemes (in excess of 100 units per hectare), the Council may seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended, for the shortfall in communal open space provision; Private Open Space for Apartment Developments Table 12.11 - Studio 4 sq. m; 1 bed 5 sq. m. Two Bed (3 persons) – 6 sq. m; Two bed (4 persons) – 7 sq. m; 3 bed 9 sq. m; Four + 12 sq. m. In certain circumstances, apartments which have limited or no individual private open space - for example where it is proposed to sub-divide an existing building into apartments - communal and private open space requirements may be combined (partially or otherwise) to provide for communal amenity areas. 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; 12.11.2 Architectural Heritage – Protected Structures 12.11.2.1 Works to a Protected Structure

### Chapter 13 – Land Use Zoning Objectives

Zoning Objective 'NC' 'To protect, provide for and/or improve mixed-use neighbourhood centre facilities'.

'Residential – Build to Rent' is open for consideration within such zoning, subject to retaining an appropriate mix of uses

‘Restaurant’, ‘Shop-Neighbourhood’ and ‘Offices Less than 300 sq. m.’ are permitted in principle

#### Chapter 14 – Specific Local Objectives

SLO 37 - That Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location.

#### Appendices

Appendix 3: Development Management Thresholds

Appendix 4: Heritage Lists

Record of Protected Structures (RPS No. 2131): Dunleary House Old Dunleary Road, Dún Laoghaire, Co. Dublin Former House (excluding later 20<sup>th</sup> Century extensions)

## **4.0 Assessment**

- 4.1.1. This report should be read in conjunction with the previous Inspector’s report prepared in respect of the proposed strategic housing development ABP-312070-21 dated 24<sup>th</sup> March 2022. I would again highlight to the Board that the operative development plan is now the Dun Laoghaire Rathdown Development Plan 2022-2028 which came into effect on the 21<sup>st</sup> of April 2022.
- 4.1.2. Following on from the holding of an Oral Hearing on 22<sup>nd</sup> June 2022, held in accordance with the limited agenda as directed by the Board under Board Direction BD-010515-22 (dated 5<sup>th</sup> May 2022), I have assessed and reviewed the information presented at the Oral Hearing, having regard also to the original submission, including the EIA Screening and the Screening for Appropriate Assessment.
- 4.1.3. The limited agenda issued by Board (set out in 1.2 of this report) is discussed under the following heading hereunder: Impact on the Protected Structure.
- 4.1.4. As a new Development Plan has been adopted since the drafting of my original report, it is also pertinent to consider if there is any material change in policies or objectives that would have any impact on my original assessment of the application, and as such I have provided an assessment of same below, where appropriate.

#### 4.2. **Oral Hearing Agenda Items**

- 4.2.1. Relevant Development Plan policy as relates to Protected Structures generally, and to this particular site, in light of the agenda items (which relate in the main to the Protected Structure on site) are as follows:
- 4.2.2. Appendix 4: Heritage Lists of the current Development Plan includes the Record of Protected Structures. 'Dunleary House Old Dunleary Road, Dún Laoghaire, Co. Dublin Former House (excluding later 20th Century extensions)' is included within the RPS (RPS No. 2131).
- 4.2.3. SLO 37 of the Dun Laoghaire Development Plan 2022-2028 states 'Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location'.
- 4.2.4. Chapter 11 of the Dun Laoghaire Development Plan 2022-2028 relates to 'Heritage and Conservation' and relevant Policy Objectives include:

- Policy Objective HER8: Work to Protected Structures

It is a Policy Objective to:

- Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.
- Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
- Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.
- Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the

Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.

- Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
  - Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.
  - Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.
  - Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
  - Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES).
- Policy Objective HER9: Protected Structures Applications and Documentation
- It is a Policy Objective to require all planning applications relating to Protected Structures to contain the appropriate level of documentation in accordance with Article 23 (2) of the Planning Regulations and Chapter 6 and Appendix B of the 'Architectural Heritage Protection Guidelines for Planning Authorities', or any variation thereof.

- 4.2.5. Section 12.11.2 of the Dun Laoghaire Development Plan 2022-2028 relates to 'Architectural Heritage – Protected Structures' and it is stated that 'the inclusion of a structure in the Record of Protected Structures does not prevent a change of use of the structure, and/or development of, and/or extension to, provided that the impact of any proposed development does not negatively affect the character of the Protected Structure and its setting (Refer also to Section 11.4.1)' It is further stated that 'The refurbishment, re-use and, where appropriate, redevelopment of Protected Structures, and their setting, shall not adversely affect the character and special interest of the building'.

- 4.2.6. Sections 12.11.2.1 'Works to a Protected Structure' sets out criteria in relation to such works relating to standards of work, retention of features, retention of plan form, new additions, previous work to the property, works to the interior, scale and form of extensions, demolition/removal of fabric, use of materials and external fittings.

**Agenda Item 1 - Fabric**

- 4.2.7. Item 1 of the agenda, and as per Board direction BD-009853-22, states:

*'While works of significance have been carried out internally to Dun Leary House in previous times, including the removal of the original staircase, it is considered that much of the original fabric and many of the rooms remain intact, the extent to which this original fabric could be sensitively retained and repurposed, including the reinstatement of some of the original features of the building, should be further elaborated upon'*

- 4.2.8. The applicant in their submission have further set out that the elements that are to be removed within the building are the least sensitive and are not considered to be of particular significance architecturally, including the roof, with the original hip-to rear having been removed. It is further elaborated upon that all of the most significant fabric is proposed to be retained and restored, which includes all of the granite, brick, ironwork and joiner facing onto the streetscape. The applicant's architect stated that the 'interior is a very modest space' and that the submitted 'images given an idea of the quality of the internal spaces, which is quite ordinary'
- 4.2.9. Verbal submissions from Observers have stated that it is welcome that the building is to be restored and reused. However it is stated by one observer that no significant works have been carried out the roof of the building since at least the 1960s.
- 4.2.10. Chapter 7 of the Applicant's submission sets out an alternative proposal. The applicant's representative set out at the Hearing that this alternative proposal merely set out the feasibility of an alternative approach. It is not therefore a formal amendment to the application, nor is the presentation document accompanied by formal drawings that correspond to that shown in the presentation document.
- 4.2.11. In relation to this alternative proposal, I am satisfied that this does not include anything that was not encompassed by the original description of the development in the application, and that therefore consideration of it by the Board at this stage would

not have implications for participation by persons who either made or did not make submissions on the application, or for the screening for EIA.

- 4.2.12. In relation the fabric of the Protected Structure, then, the alternative proposal retains the majority of the existing fabric and inserts new stairs in the location of the original missing stairs. In terms of the roof, it is set out that the roof is not original and does not retain fabric of historic significance. The roofscape is not in its original form with the hipped section lost to the rear. Whilst the form is retained to the front, its fabric has been replaced and reinstated wholesale. The alternative proposal sees the removal of approximate half the area of the roof form, with half of the roof form, and chimney stacks retained.
- 4.2.13. I have set out my assessment of the proposal, as submitted, in my original report (dated 24<sup>th</sup> March 2022), which was assessed in the light of the Architectural Heritage Guidelines and the previous Development Plan. In terms of the current Development Plan, the most pertinent policy is 'Policy Objective HER8: Work to Protected Structures'. I am not of the view the proposal, as originally submitted, complies with the assessment criteria as set out in Policy Objective HER 8, for the reasons as set out in my original report, and these reasons remain valid in light of the current Development Plan.
- 4.2.14. In terms of the acceptability of the alternative proposal as set out in Chapter 7 (Response to Agenda Items – Alternative Proposal) of the applicant's submission document to the Hearing (hereinafter referred to as 'the alternative proposal'), I am satisfied that this alternative is generally in line with the guidance as set out in the Architectural Heritage Protection Guidelines, and is generally in line with Policy HER8 of the current Development Plan, and represents a refurbishment of the structure that pays sufficient regard to the internal fabric of the buildings as it retains the majority of the original fabric of the Protected Structure, in contrast to the originally submitted proposal, which resulted in the removal of much of the internal fabric. I note also the new stairs in the area of the original staircase (which has been removed under previous renovations) which pay heed to the original layout of the Protected Structure. While I note that the applicants have set out that there is little of architectural interest internally, I am aware that the building has social, industrial and heritage significance, as noted by observers at the hearing, and as such the retention of the floorplans, and the vast majority of the internal fabric, is warranted. This allows for the Protected Structure to be appreciated in a form that is, for the

most part, as per the original house. I note also the removal of the unsympathetic modern 'ski slope' extension, which currently detracts from the Protected Structure. I am of the view that the alternative proposal, as set out in the applicant's submission document, is in line with the provisions of the Architectural Heritage Guidelines, in that the vast majority of the original fabric is to be retained. I am satisfied also that the alternative proposal is in line with the relevant criteria of Policy Objective HER8 of the Development Plan, in that the plan form and hierarchy of spaces have been retained. I am satisfied that the retention of the fabric, as shown in the applicant's presentation document, can be ensured by way of condition, as the applicants have demonstrated the feasibility of such an approach, should the Board be minded to grant permission for the development.

### **Agenda Item 2 - Use**

4.2.15. Item 2 of the agenda, and as per Board direction BD-009853-22, states:

*'The applicant is requested to provide evidence of their consideration of a residential use within the protected structure, or an alternative commercial/office use, and whether such alternative uses/layout would allow for a greater retention of the original building'.*

4.2.16. The applicant's submission to the Hearing set out that the office space and the retail unit proposed within this scheme offer a viable mix of uses that accord with the Neighbourhood Centre zoning. The Co-working office suites within Dun Leary House are reflective of its original purposes as offices of the coal yard. It is set out that the proposed office use provides a clear purpose and identity to the retained building and complies with the Neighbourhood Centre zoning for the site. Representatives of the applicants set out at the Hearing that both residential and office use were considered and the applicants looked at opening up of the plan to provide more generous uses. It was stated that the proposed 'co-working' office suites within Dun Leary House are reflective of its original purposes as offices of the coal yard. Notwithstanding, the applicant's submission document illustrates how a residential use might be incorporated within the existing fabric of the building. This illustrates a 5 bedroom property within the building.

4.2.17. In relation to the merits, or demerits, of a residential use, I am not of the opinion that such a use would represent an efficient use of the floor space, nor does this residential use contribute to the mixed use function of the neighbourhood centre, an



issue which was raised as a concern by the Planning Authority at the Hearing. The Conservation Officer also raised a concern in relation to the potential impact of a residential use on the fabric of the building, with the necessity for flues and other necessary interventions to accommodate the use, and that insufficient information has been presented to make an assessment of same. I am satisfied that the applicants have demonstrated that a residential use has been considered for the building, in line with the Board's request. However I am of the view that a proposal that would retain much of the internal fabric of the buildings, yet retains the co-working office use as originally proposed, represents an appropriate refurbishment of the Protected Structure, and the incorporation of a residential use with the envelope of the Protected Structure, is neither necessary nor desirable in this instance. I note the provisions of the Architectural Heritage Protection Guidelines which note that flexibility is sometimes required in terms of proposed uses for a Protected Structure, in order to prolong the life of same and to keep it in active use and I am satisfied that the use proposed is in line with these Guidelines. I am satisfied also that the use as proposed is also in line with relevant criteria of Policy Objective HER8 of the current Development Plan, in that the use is compatible with the character and special interest of the Protected Structure.

- 4.2.18. As per the discussion above, I am satisfied that an appropriate condition can be imposed that would ensure that the co-working office floorspace is set out as presented in the applicant's alternative proposal, should the Board be minded to grant permission for the development.

### **Agenda Item 3 – Extensions to Protected Structure**

- 4.2.19. Item 3 of the agenda, and as per Board direction BD-009853-22, states:

*'The proposed works to the proposed Protected Structure involve the removal of substantial elements of the form, and the introduction of extensions that have the potential to overwhelm the existing structure. The applicant is requested to provide further elaboration or justification in respect of the removal of the roof of the proposed Protected Structure, and the appropriateness (in full or in part) of the proposed three additional floors above, in particular having regard to the Development Plan Policy and Architectural Heritage Guidelines'.*

- 4.2.20. The applicant's submission to the Oral Hearing reiterates that the proposal as originally submitted seeks to retain and conserve all of the elements of the original

building which contribute to the streetscape significance. This includes the cleaning and repointing of brick and granite elements, the reinstatement of lost historic sash windows and historic front door, the restoration and reinstatement of cast and wrought ironwork to the boundary. Notwithstanding, and in light of the Board's concerns, Section 7 of the Applicant's submission document includes an 'alternative proposal' which includes details of an amended scheme for the Board's consideration that *inter alia* retains the full gable roof of the front façade and chimney stacks behind, and sets back the upper residential floors approximately 6m from their previous position. The applicant set out at the Hearing that this alternative proposal retains the entire internal and external wall fabric and retains much of the roof form, albeit much of the roof form having previously been subjected to modern interventions and with little of original fabric of significance remaining.

- 4.2.21. The Planning Authority stated at the Hearing that 'there is some merit in some of the proposals and that they 'welcome proposals to keep more of the fabric'. However it was also stated that they 'still have some concerns in relation to the additions on the upper floors' and that 'there is more of the original roof on the other side also and do not see why this couldn't be kept'.
- 4.2.22. Observer submissions at the hearing, both verbal and written, stated that the proposal represented an overdevelopment of the site and stated it was possible to have a standalone building, in which all the elevations were visible and readable, and to have an development that is appropriate to the neighbourhood centre. It was stated that there was little discussion in relation to the curtilage of the property, and it was felt that more of this could be retained. It was stated that the proposed development was not in line with the idea of minimum intervention. It is stated that, despite what the assertions of the applicants may be, there is nothing pleasing about the scale that is proposed overall. It is also stated that the other examples cited are in a completely different context, are not in an architecturally sensitive area and they actually do not remove the roof. It is also stated that it is not considered that the Applicant has sufficiently justified the works to the Protected Structure. It is stated that the proposed development materially contravenes Policy Objective HER8 of the Development Plan.
- 4.2.23. I have set out my assessment of the upper levels of the proposal as originally submitted in Section 10.4 of my original report, and I am satisfied that this assessment remain valid in light of the objectives of the current Development Plan,

in particular having regard to the provisions of Policy Objective HER8. In relation to the merits, or demerits, of the 'alternative proposal', I am of the view that this represents a significant improvement, over the originally submitted proposal. The alternative proposal incorporates a significant setback, which allows for a partial retention of the roof, and which eliminates the overbearing nature of the originally submitted proposal. While I acknowledge that not all of the roof structure has been retained, I am of the view that what has been retained allows for the structure to be read in such a way that its original form and character can be appreciated. I also acknowledge that the roof form has been altered in the past, and internally does not have any fabric of significance to the building, as detailed in the applicant's submissions. As such, the partial removal of this fabric, which does not contribute to the special interest of the building, is in line with the provisions of the Architectural Heritage Protection Guidance. In terms of the overall scale of the proposals, the alternative proposal is in line with Architectural Heritage Protection Guidance, which sets out that 'extensions should complement the original structure in terms of scale, materials and detailed design'. Furthermore it is set out within this Guidance that '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'. I am also of the view that the alternative proposal is also in line with the relevant criteria as set out in Policy Objective HER 8 of the current Development Plan, in that the scale of development is appropriate, and that the form and structural integrity of the building is largely retained.

- 4.2.24. In relation to the curtilage and attendant grounds of the Protected Structure, and in relation to the compliance, or otherwise, of the proposal with the relevant criteria of Policy HER 8, and in response to specific concerns raised by observers at the Oral Hearing, I note that there is little evidence to suggest that the curtilage of the Protected Structure encompassed a wide area and historic mapping as included in Appendix 1 of the Applicant's submission document (Presentation prepared for An Bord Pleanála Oral Hearing 22nd June 2022) does not indicate that the wider site forms part of the curtilage or the attendant grounds, and the curtilage of Dun Leary House appears to be limited to this south-western corner of the wider site. I am satisfied then that the criteria as set out in Policy Objective HER 8 of the current Development Plan, as relates to curtilage and attendant grounds, has been complied with, when considering both the originally submitted proposal and the alternative proposal.

4.2.25. In relation to SLO 37 of the Dun Laoghaire Development Plan 2022-2028, I am of the view that the proposal as originally submitted would not satisfy the requirements of this local objective, for the reasons as set out in my original report, namely that the development as proposed, with significant fabric removed would not constitute renovation of the building as required by this objective. However, I am of the view that the alternative proposal, which has sought to retain essentially all of the internal fabric (save for some internal roof elements) and much of the external fabric, as well as the boundary walls, would satisfy the requirements of SLO 37. This objective also refers to the suitable reuse of the building, and I have discussed the use issue in the relevant section above. The retention of the boundary wall is also in line with the relevant criteria of Policy Objective HER 8 of the current Development Plan.

#### **4.3. Other Issues**

4.3.1. The Dun Laoghaire-Rathdown County Development Plan 2022 – 2028 is the current statutory plan for the Dun Laoghaire-Rathdown County area, and which includes the subject site. I have set out below relevant policies and objectives that pertain to this site and the proposed development, and where relevant, have provided an assessment in light of these objectives, where my original assessment has not already dealt with the issues raised.

##### Zoning/Build-to Rent

4.3.2. As per Map 3 of the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028, the site is located on land zoned Objective NC - to protect, provide for and-or improve mixed-use neighbourhood centre facilities'. 'Residential – Build to Rent' is open for consideration within such zoning, subject to retaining an appropriate mix of uses. 'Restaurant', 'Shop-Neighbourhood' and 'Offices Less than 300 sq. m.' are permitted in principle

4.3.3. In relation to same, I note the previous Development Plan did not distinguish between 'Residential - Build-to-Rent' and 'Residential', and Residential was permitted in principle on NC zoned sites such as this one. I have provided my assessment against same in Section 10.2 of my original report. Under the current Development Plan I note that 'Residential - Build-to-Rent' is 'Open for Consideration' on this NC zoned site, rather than 'permitted in principle'. Section 13.1.3 'Open for Consideration' of the current Development Plan notes that uses shown as 'Open for Consideration' are uses which may be permitted where the Planning Authority is

satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.

- 4.3.4. Also of relevance here is Policy Objective PHP28: Build-to-Rent and Shared Accommodation/Co-living Developments which states that *'It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 (and any amendment thereof). Proliferation of Built to rent should be avoided in any one area.....'* The supporting text states *'Build-to-rent (BTR) accommodation will be facilitated at appropriate locations across the County in accordance with land use zoning objectives. For the avoidance of doubt, BTR is:*

- *Permitted in principle in areas zoned objective MTC (major town centre) and DC (district centre)*
- *open for consideration in areas zoned objective NC (subject to retaining an appropriate mix of uses), A, A1, and A2.*

*BTR shall be located within a 10 minute walking time from high frequency public transport routes. BTR will be considered as a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one area shall be avoided'*

- 4.3.5. In relation to the principle of the BTR use, and the mix of other uses provided (which has not materially changed under the revised proposals), I note that the Planning has not objected to the principle of BTR at this location, and have stated that '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'. As noted in my original report, I share this view, and I am of the view that the development as originally proposed, and the alternative proposal, meet the criteria for 'Open for Consideration' and is therefore in accordance with the zoning objective for the site.

- 4.3.6. I have considered the locational aspects of the site, and its suitability for BTR including its proximity to the nearest DART station, in Section 10.2 of my original report and this assessment remains valid here. Section 12.3.6 of the Development Plan also refers to Build-to-Rent Accommodation and I have assessed the quality

and quantum of support services and amenities in Section 10.2 of my original report and I am satisfied that my assessment remains relevant when the scheme is considered under the current Development Plan.

- 4.3.7. Having regard to the above, I am satisfied that both the original proposal, and the alternative proposal, are in line with the above objectives, including the zoning objective relating to the site.

#### Neighbourhood Centres/Villages

- 4.3.8. Chapter 4.0 relates to 'Neighbourhood -People, Homes and Place and Policy Objective PHP4: Villages and Neighbourhoods of same states that *'it is a Policy Objective to:*

- *Implement a strategy for residential development based on a concept of sustainable urban villages.*
- *Promote and facilitate the provision of '10-minute' neighbourhoods'.*

- 4.3.9. Policy Objective PHP4: Villages and Neighbourhoods, Policy Objective MFC1: Multifunctional Centres, Policy Objective MFC2: Accessible and Inclusive Multifunctional Centres are and Policy Objective RET7: Neighbourhood Centres are all of relevance to this proposal.

- 4.3.10. In relation to the above objectives, I have considered the issue of urban villages and proximity to shops and services within Section 10.3 of my original report, and I refer the Board to same. Having regard to same, I am satisfied that the proposal is in line with the above objective. The mix of uses on site and the wider area is assessed in my original report (Section 10.3) and I am satisfied that an appropriate mix has been provided, and I note the Planning Authority did not object to the mix of uses on this site, in their original submission on the application. The site is well served by public transport and is also well served by cycle and pedestrian routes, as assessed in my original report (Sections 10.2 and 10.8). I am satisfied that both the proposal, and alternative proposal, are compliant with the objectives as relates to Neighbourhood Centres/Villages as set out in the current Development Plan.

#### Residential Density

- 4.3.11. Policy Objective PHP18 'Residential Density' states that *'It is a Policy Objective to:*

- *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*
- *Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*

4.3.12. The supporting text states inter alia 'Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density<sup>1</sup>) will be encouraged

#### *Constraints to Higher Density*

*Consideration in relation to densities and layout may be given where proposals involve existing older structures that have inherent vernacular and/or streetscape value and where retention would be in the interests of visual and residential amenity and sustaining the overall character of the area. Some dispensation in relation to separation distances, open space requirements and density considerations may be appropriate...*

*In some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACAs, cACAs, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings, new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity. There may be some specific areas of the County where higher densities, which would normally be encouraged by virtue of proximity of the site to high public transport corridors, cannot realistically be achieved as a consequence of other infrastructural shortcomings – such as the capacity of the local road network. The number of such sites would, however, be limited.'*

4.3.13. Section 12.3.3.2 'Residential Density' of the current Development Plan states that, in general, the number of dwellings (houses or apartments) 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).
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020).

4.3.14. I have set out my consideration of residential density within Section 10.2 of my original report, and I am satisfied that my assessment remains valid in light of the above requirements, notwithstanding the slight reduction in the density proposed under the alternative as suggested by the applicant (the density in the revised proposal would be 250 unit/ha compared to the density of the submitted scheme at 262.9 units/ha). I am also satisfied that there is no material contravention of the current Development Plan, as relates to density, having regard to the considerations as set out in my original report.

4.3.15. In relation height, scale, massing and proximity, and the subsequent impact on the Protected Structure on site, surrounding Protected Structures and Architectural Conservation Areas (ACAs), I have considered same in Section 10.4 (Impacts on the Protected Structure) and Section 10.5 (Design including Heights and Layout/Visual Impact) of my original report (in assessing the original proposals) and I have considered the alternative proposal, as suggested by the applicant, in Section 4.5 of this report. I have considered the capacity of the local road network in Section 10.8 (Traffic and Transportation) of my original report, and other infrastructure issues in Section 10.10 (Flood Risk) and Section 10.11 (Site Services).

#### Design/Placemaking/Building Height

4.3.16. Policy Objective PHP35 refers to Healthy Placemaking and Policy Objective PHP42 refers to Building Design & Height, including ensuring that new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).

4.3.17. In relation to the above objectives, I have set out my assessment of the proposed heights in Section 10.5 of my original report, against the policies and objectives of the previous Development Plan, including the height strategy contained therein. In



relation to the current Development Plan, I note Building Height Strategy as contained in Appendix 5 of same, has been amended somewhat, although the broad thrust of the document remains the same. Of relevance to this proposal is Section 3.3 of the Building Height Strategy, which refers to the Urban Framework Plan for Dun Laoghaire (which itself is contained in Appendix 17 of the current Development Plan), which as per the previous Building Height Strategy, will help guide development for the area, in advance of a formal Local Area Plan being prepared for the area.

4.3.18. Policy Objective BHS 2 – ‘Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan’ of the Building Height Strategy states *inter alia* ‘that it is a policy objective to promote and support proposed heights as set out certain areas including the Dun Laoghaire Framework Plan area. Having regard to the Building Height Guidelines, and SPPR3, there may be instances where an argument can be made for increase height and/or taller buildings in the areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance criteria set out in table 5.1 which is contained in section 5. Within the built up area of the county increased height can be defined as buildings taller than the prevailing height in the surrounding areas. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area)’ The supporting text for same states that proposals for larger scale developments which are increasing height or proposing a taller building should ensure that there is an adequate mix of uses in the overall proposal or that the use proposed ensures an adequate mix in the overall area (as per SPPR 2).

4.3.19. Section 5 of the Building Height Strategy sets Performance Based Criteria, and Table 5.1 sets out criteria for assessing proposals for increased height (defined as buildings or buildings taller than prevailing building heights in the surrounding urban area) or taller buildings or for a building that is higher than the parameters set out in any LAP or any specific guidance set out in the CDP. I am not of the view that the heights as proposed (both in the original proposal and the alternative proposal suggested by the applicant) breach any parameters set out in the CDP, including that of the Urban Framework Plan, and therefore I am satisfied that there is no material contravention of the current Development Plan, as relates to the issue of

height. However, the heights proposed are somewhat higher than the prevailing building height and as such the criteria set out in Table 5.1 apply in this instance.

- 4.3.20. In relation to this criteria, at a county level, reference is made to compliance with the NPF and public transport accessibility. I have considered same within Sections 10.2 and 10.5 of my original report (in relation to compliance with NPF objectives relation to infill development and delivering compact growth), and within Sections 10.2 and 10.8 of my original report (in relation to public transport accessibility), and my original assessment still stands in this regard, and I am satisfied that the these criteria have been met.
- 4.3.21. Other criteria at county level refer to integration with the character and public realm of the area, having regard to topography, cultural context and setting of key landmarks, and impact on protected views and prospects. I have considered how the proposal as originally submitted integrates with the character and public realm of the wider area, and how the proposal impacts on views and prospects in in Section 10.5 of my original report, and I am of the opinion that this assessment still stands when applied to the alternative proposal as suggested by the applicant. I have considered the issue of infrastructure carrying capacity in Section 10.8 (Traffic and Transportation) Section 10.10 (Flood Risk) and Section 10.11 (Site Services) of my original report.
- 4.3.22. Specific documentation required include a landscape and visual assessment, an urban design statement and a Street Design Audit (DMURS), and I note that the applicant has a Design Statement, a Landscape & Visual Impact Appraisal and a Stage 1 Quality Audit, the latter document completed in accordance with the guidance as set out in DMURS.
- 4.3.23. At the District/Neighbourhood/Street and at the Site/Building scale, the criteria broadly reflect that criteria as set out in Section 3.2 of the Building Height Guidelines, and I refer the Board to my assessment of same, as relates to the original proposal. This assessment still stands when considering the alternative proposal, with the exception of the consideration of the impact on the setting of Dun Leary House (a Protected Structure). I have considered the impact of the alternative proposal suggested by the applicant in Section 4.2 of this report. A further additional criteria, over and above Section 3.2 of the Building Height Guidelines, relate to energy use and energy efficiency of the development, as relate to climate policy. In relation to

same, I note the applicant has submitted an Energy & Sustainability Report, which sets out how the development complies with the Building Regulations Part L – Conservation of Fuel and Energy and what energy measures are needed to ensure compliance. It is stated that a Building Energy Rating (BER) of A2/A3 has been targeted for the proposal. It is set out that an energy efficient building envelope will reduce energy demand within, with energy efficient equipment minimising energy use and cost. I am satisfied the measures set out in this report demonstrate compliance with this particular criteria.

4.3.24. Specific Documentation required include a Design Statement and a Building Life Cycle Report, and I note the applicants have submitted both of these documents. It is also required to demonstrate compliance with the 12 Criteria as set out in the Sustainable Residential Development Guidelines. In relation to same I have considered these criteria within my original assessment of the proposal, within the relevant sections of my report and I am satisfied that this assessment would remain relevant if applied to the alternative proposal as suggested by the applicant.

4.3.25. At the 'County Specific Level', criteria relevant to this proposal relate to protection of the particular character of the coastline, with the requirement for an urban design study and visual impact assessment, with views from the sea and/or piers as appropriate. I have considered this particular issue within Section 10.5 of my report and I am satisfied that my assessment remains relevant when considering the alternative proposals as suggested by the applicant. Also required is consideration of micro-climate impacts, impacts on birds/bats, and telecommunications and I have considered this in Section 10.5 of my original report, and the assessment also remain relevant when considering the alternative proposals suggest by the applicant. Other criteria here have been considered in my original report including Section 11 (EIA), Section 12 (AA Screening), Section 10.9 (Ecology/Trees), Section 10.5 (as relates to Placemaking) and Sections 10.6 (Residential Standards) and 10.7 (Surrounding Residential Amenity), as relates to daylight and sunlight requirements. I note also that the applicants have submitted a Design Statement, Landscape & Visual Impact Appraisal and a Verified Views/Montages/GGI document which fulfil the requirements of this criteria.

#### Development Management Standards

Mix

- 4.3.26. Policy Objective PHP27: Housing Mix states that 'It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA'
- 4.3.27. I have considered the originally proposed unit mix in Section 10.5 (Residential Standards) of my original report. Should the Board condition an amended proposal, in line with the applicant's Oral Hearing Submission this would result in a reduction of 9 no. residential units. The mix as proposed in the original application, and as set out in the applicant's 'alternative proposal' is as follows:

<b>Apartment Type</b>	<b>Studio</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3+ bed</b>	<b>Total</b>
Proposal as submitted					
<b>No. of Apts</b>	34	77	35	0	146
<b>As % of Total</b>	23.3%	52.7%	23.9%	0	100%
Applicant's alternative proposal					
<b>No. of Apts</b>	34	66	39	0	139
<b>As % of Total</b>	25.5	47.5	28.1	0	100

- 4.3.28. The overall unit number has decreased from 146 no. units to 139 no. units. The number of 1 bed units has decreased from 77 no. to 66 no. and the number of 2 beds has increased from 35 no. to 39 no. units. The number of 2 bed (3 person) units remains the same, at 4 no. units. In relation to the mix, I have set out my assessment of same, as relates to the requirements of SPPR8 of the Apartment Guidelines and I am satisfied my assessment remains valid for both the original scheme, and for slightly revised mix as proposed by the applicant in the alternative scheme, having regard to the adopted elements of the current Development Plan, most notably having regard to the supporting text within Section 12.3.6 'Build-to-Rent Accommodation' of the current Development Plan, which states that 'all proposed

BTR accommodation must comply with SPPR7 and SPPR8 as set out within the Design Standards for New Apartments’. As per my original report, I am satisfied that the proposal contributes positively to the provision of a mix of building dwelling typologies, and my original assessment remains relevant here.

- 4.3.29. Section 12.3.3.1 of the Development Plan refers to ‘Residential Size and Mix’ and states that applications such as this one should include information in relation to existing residential units in the area, details of mix, details of adaptability, and sets out a limitation of more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person apartment types.
- 4.3.30. In relation to the above, I note that the applicant’s Planning Report sets out a general description of the site and the wider area, including a consideration of neighbouring housing typologies. The Design Statement sets out a detailed description of the site’s context. I have also set out a description of same, which includes a consideration of housing typologies in the immediate area, within Section 10.5 of my original report. While the details set out therein is not strictly in accordance with the requirements above (which require a consideration of housing typologies within a 10minute walk of the site), I am not of the view that this issue is fundamental, and I note that such a requirement likely stems from a concern in relation to an over concentration of one housing typology in the area. I note the area is characterised by a mix of housing typologies, and I am not of the view that there would be an over concentration of apartment typologies nor of ‘Built-to-Rent’ developments in the area, and this concern has not been raised by the Planning Authority in their original submission on the application, and the principle of a ‘Built-to-Rent’ typology on this site has not been questioned by the Planning Authority.

#### Daylight/Sunlight

- 4.3.31. Section 12.3.4.2 Habitable Rooms – states, *inter alia*, ‘Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance)’. (my emphasis)
- 4.3.32. I have set out a consideration of same within Section 10.6 of my report, as relates to the originally submitted proposal. In relation to the alternative proposal, the applicants presentation at the Oral Hearing briefly considers this issue and notes that

there will be an improvement in internal daylight levels in apartments that are in close proximity to the now proposed setback, and I am satisfied that this will be case. The applicant's have also briefly considered the impacts of applying the standards as set out in the 3<sup>rd</sup> Edition of the BRE Guidance (June 2022), and note that in relation to daylight, there will be a reduction in overall compliance with BRE Standards from 98.9% to 93%-94%.

- 4.3.33. In relation to daylight, I note that the above objective, and the guidance set out in the Building Height Guidelines, and the Apartment Guidelines, allow for the standards in the 2011 2<sup>nd</sup> Edition of BRE to be applied when assessing development proposals, as is the case here, and I am satisfied that my original assessment, as set out in Section 10.6 of my original report, remains valid, when applied to the original scheme, and note the probable improvement in daylight performance of some units as a result of the removal of adjacent built form, when considering the alternative proposal suggested by the applicant. Even if it were found that the new updated standards should be applied, I am satisfied that an overall compliance rate of 93%-94% still represents a good level of daylighting performance in a higher density scheme such as this one.

#### Dual Aspect

- 4.3.34. Section 12.3.5.1 of the Development Plan refers to 'Dual Aspect in Apartments' and states that *inter alia* 'DLR as a County is classified as a suburban or intermediate location and therefore there shall generally be a minimum of 50% dual aspect apartments in a single scheme, with reference to Specific Planning Policy Requirement (SPPR) 4 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
- 4.3.35. I have considered the issue of dual aspect in Section 10.6 of my original report and I refer the Board to same. In summary, I note that 44.5% of the units are dual aspect. I am not of the view that the above objective should be rigidly applied, and the term 'generally' would appear to allow a site and development specific assessment, with some flexibility in applying the standards. In addition, my view remains that the site itself can be characterised as a 'central and accessible urban location' for the reasons as set out in my original report, and as such a minimum of 33% dual aspect units should be provided, as per SPPR 4 of the Apartment Guidelines.

#### Public Open Space

*Table 12.8: Residential Development in the existing built up area - 15% (of site area)*

*The supporting text states inter alia It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended.*

- 4.3.36. I refer the Board to my original assessment in relation to public open space provision, and I note that the non-provision of public open space in this instance remains justified having regard to the altered requirement above (which is now 15% of the site area). The proposed development is providing a total of 18% of the site areas a high quality communal open space, which in light of the characteristics of the scheme (a high density, urban infill scheme), is in line with the requirement above. Section 48 Development contributions can be sought by way of condition, should the Board be minded to grant permission.

#### Other Development Management Standards

- 4.3.37. In relation to Separation Between Blocks, Internal Storage and External Storage, Minimum apartment floor areas, Floor to Ceiling Heights (Additional Apartment Design Requirements), Communal Open Space and Private Open Space, I have considered these issues in 10.6 of my original report, and my assessment remains relevant when both the original scheme, and the alternative scheme as suggested by the applicants, is assessed against the standards in the current Development Plan.

#### Transport

- 4.3.38. Policy Objective T17: Travel Plans of the Development Plan states that 'it is a Policy Objective to require the submission of Travel Plans for developments that generate significant trip demand (reference also Appendix 3 for Development Management Thresholds). Travel Plans should seek to reduce reliance on car based travel and encourage more sustainable modes of transport over the lifetime of a development. (Consistent with RPO 8.7 of the RSES)'. Section 12.4.3 Travel Plans also requires a submission of a Travel Plan for schemes of a 100 dwellings or more. In relation to same, the applicant has submitted a Mobility Management Plan with the application which sets out measures that will be undertaken to encourage more sustainable

transport choices which will serve to reduce demand for the private car use (see discussion of same in Section 10.8 of my original report) and I am satisfied that this fulfils this requirement.

- 4.3.39. Policy Objective T19 and Section 12.4.3 refer to Car Parking Standards. Table 12.5 sets out the car parking standards applicable to development within the county. Applying the maximum to this development, this would require 146 no. spaces (1 space per unit). A total of 44 no. on site spaces have been provided. The development plan sets out criteria where a reduced provision would be acceptable. I am satisfied that my original assessment, as set out in Section 10.8 of my original report, still stands in this instance, and a reduced parking provision, relative to the maximum standards, as set out in the current Development Plan is justified, having regard to the criteria as set out in the Development Plan.

Section 12.4.6 refers to Cycle Parking and states that '*Cycle parking should accord with the Council published – 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (2018) or any subsequent review of these standards. These are minimum cycle parking standards. In car parking Zones 1 and 2 these minimum standards should be exceeded.*'

- 4.3.40. Table 4.1 of 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (2018) sets out that for this proposed development, the residential cycle parking requirement is 147 long stay/and 29 short stay. For this proposed development, a total of 277 cycle parking spaces are provided (183 no. long term residential parking spaces and 94 no. visitor spaces). This above the current Development Plan standards 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. Table 4.1 of Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (2018) sets out that 3 short term spaces are required for the retail unit, and approximately 7 spaces for staff. For the co-working element (applying the standards for office) a total of 1 short term spaces are required and 8 spaces for staff I am of the view that the significant over-provision of visitor parking is sufficient to serve both the residential and non-residential elements of the scheme, notwithstanding the proposal does not provide dedicated long term parking for staff of the retail and the co-working element. In any case I note the co-working



element is unlikely to have much of a requirement for staff cycle *per se* given the nature of the use.

Section 12.4.6.1 Requirements for New Development states, *inter alia*, it is a requirement that, new residential developments of 5 residential units or more or non-residential type developments of 400 sq. m. or over, submit a Cycle Audit as part of the planning application. However I am satisfied that the details as provided under the original application, as relates to the quantum and location of cycle spaces, is sufficient in this regard, and the absence of a standalone Cycle Audit is not fundamental to the acceptability or otherwise of the current proposal.

#### Residential Amenity

- 4.3.41. Policy Objective PHP20: Protection of Existing Residential Amenity states that 'It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments'. In relation to same, I have considered the issue of residential amenity in Section 10.6 of my original report, and I am satisfied my assessment remains valid. I am not of the view that the alternative proposals as suggested by the applicant would have an impact on surrounding amenity that would be over and above the original proposals. As such I am satisfied that both the original proposals and alternative proposals are in line with the above policy objective.

#### Site Services

- 4.3.42. Policy Objective EI6: Sustainable Drainage Systems and Policy Objective EI9: 'Drainage Impact Assessment' (which includes a reference to Appendix 7.1 of the Development Plan - Stormwater Management Policy) are of relevance to this proposal. In relation to the above, I note that the proposal has incorporated SuDS, and I have considered this issue in Section 10.11 (Site Services) of my original report. I note that the applicant has not submitted a standalone 'Drainage Impact Assessment' but a detailed consideration of the existing surface water and foul water network, as well as the proposed surface water design and proposed arrangements for foul water, including a consideration of any capacity constraints are set out in various documents submitted with the application, including the 'Infrastructure Design Report', the 'Site Specific Flood Risk Assessment and the 'Preliminary Culvert Diversion Methodology- Technical Note'.

4.3.43. Appendix 7.1 of the Development Plan sets out the Council's Stormwater Management Policy including Stormwater Audit Procedure. This sets out general requirements relating to climate change, urban creep, flood risk, utilities, wayleaves, private drainage and pumping of surface water. Other requirements relevant to this development include *inter alia* the consideration of SuDS, infiltration, permeable paving, run-off from basement areas and other technical requirements as relates to surface water design. I note the applicant has considered most of these issues within the documents noted above, save for the issue of urban creep. In this instance I am not of the view that this issue is strictly applicable to this form of development, as it relates to the conversion of permeable surfaces to impermeable over time, and generally occurs as a result of paving over gardens, extension to dwellings and creation of patio areas. It is not likely than such additional impermeable hardstanding would occur other than that permitted under this application and as such, having regard to my original assessment, which in turn has had regard to the documentation submitted with the application, the views of the Planning Authority, Irish Water and observer submissions, I am satisfied that the proposal complies with the general requirements of Policy Objective EI9: Drainage Impact Assessment of the current Development Plan.

#### Phasing

4.3.44. Section 12.3.4.4 Phased Development states that *inter alia* 'when considering proposals for development within the curtilage of Protected Structures a proposed phasing agreement should be provided (refer to Section 12.11.2.3)'

4.3.45. In relation to the above objective, which seeks to secure the protection of the Protected Structure, and that works to same are done at an early phase of larger developments, I am not of the opinion that this is strictly applicable to this scale of development, as the works are likely to be carried out in a single phase, given the scale of development and the limited size of the site. Notwithstanding, works to the Protected Structure are required to adhere to the terms of the planning permission, should the Board be of the mind to grant, and I am satisfied that this would provide sufficient reassurance in this regard.

#### Climate/Retrofitting

4.3.46. Chapter 3 of the Development Plan relates to 'Climate Action' and Policy Objective CA6 of same relates to 'Retrofit and Reuse of Buildings' and it is stated that 'It is a

Policy Objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Department of Environment Heritage and Local Government, 2009). (Consistent with RPO 7.40 and 7.41 of the RSES)'. In relation to same, I note that the proposal to retain Dun Leary House, is in line with same.

#### Childcare

- 4.3.47. Policy Objective PHP6: Childcare Facilities relates to the provision of childcare facilities. I have considered the issue of childcare in Section 10.12 of my original report, and I refer the Board to same. I am satisfied that the proposal is in line with the above objective.

#### Remote Working

- 4.3.48. Policy Objective E11: Remote Working seeks to facilitate the reuse of existing and historic buildings, and bring added activity and vibrancy to the relevant area. The supporting text states *inter alia* that In neighbourhood centres such proposals will be assessed having regard to ensuring an appropriate mix of uses in the wider area and in accordance with the land use zoning objectives set out in Chapter 13. In relation to the same, the proposed office hub, making reuse of a Protected Structure, helps to secure the implementation of the above objective. The mix of uses, both on site and in the wider is assessed in my original report, and I am satisfied that an appropriate mix has been provided, and I note the Planning Authority did not object to the mix of uses on this site, in their original submission on the application.

#### Material Contravention

- 4.3.49. The applicants have submitted a revised Material Contravention Statement (Appendix 4 of the Presentation prepared for An Bord Pleanála Oral Hearing 22nd June 2022). This considers potential material contraventions of the current Development Plan 2022-2028 and raises the following issues that may result in a material contravention of the current Development Plan.
- Height – may be found to contravene the Building Height Strategy for the County as set out in Appendix 5 of the Development Plan.

- 4.3.50. In response to same, I have considered the issue of building height and the compliance of both the originally submitted proposal, and the alternative proposal, with the Building Height Strategy, in this report and having regard considerations therein I am satisfied that there is no material contravention of same.
- 4.3.51. Other potential material contraventions highlighted in the Material Contravention Statement include unit mix, residential density, car parking, dual aspect, external storage, transitional zones and compliance with SLO 37. I have considered all of the above issues in my report above, and in my original report, where the assessment remains valid in light of current Development Plan objectives, and I am satisfied that no material contravention has occurred, when considering any of the above issues.
- 4.3.52. I note that the written submission made on behalf of Clearwater Cove Residents states that the proposal materially contravenes Policy Objective HER8: Work to Protected Structures of the Development Plan. I am not of the view that the proposal as submitted would comply with the general requirements of HER8, in light of both my assessment above, and as contained in my original report, but I am not of the view that such non-compliance would necessarily be a material contravention of the current Development Plan 2022-2038. I am of the view that the alternative proposal as set out by the applicant at the Hearing would comply with the general requirements of HER8, for the reasons as set out above.

#### **4.4. Conclusion on the Planning Merits of the Proposal**

- 4.4.1. I have assessed all the modifications proposed under the applicant's alternative proposal and I consider they bring additional benefits to the scheme over the original proposal and therefore should be implemented. I recommend conditions in this regard.
- 4.4.2. All other matters in relation to this application were assessed by me under the previous Inspector's Report dated 24<sup>th</sup> March 2022.

### **5.0 Conclusion and Recommendation**

- 5.1.1. On foot of the oral hearing proceedings and the evidence presented therein, I conclude that the alternative proposal as presented by the applicant should be implemented as presented and that permission should be GRANTED for the proposed development, subject to conditions, including a condition requiring the

alternative proposal as presented by the applicants at the Oral Hearing be implemented.

## **6.0 Recommended Order**

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

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

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 26<sup>th</sup> Day of November 2021 by Ted Living Limited, care of Brock McClure Consultants, Durkan House, 63 York Rd, Dún Laoghaire, Dublin, 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 m<sup>2</sup>) including a gym, atrium/reception area and skylounge. A retail unit (c.290m<sup>2</sup>) 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.247m<sup>2</sup>). 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 m<sup>2</sup>) including a: gym and associated ancillary facilities at level 01G (c.120 sqm), multi-functional atrium/reception amenity areas at level 01G (c.251 m<sup>2</sup>); 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 m<sup>2</sup>) and landscaped roof terraces and external areas (c.392m<sup>2</sup> 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.247m<sup>2</sup>) 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. 1,157m<sup>2</sup>.) 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 (371.7m<sup>2</sup>) 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**

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

### **Matters Considered**

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

### **Reasons and Considerations**

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

- (a) the location of the site in an established urban area, with the zoning objectives for the site allowing for residential development;
- (b) the policies and objectives of the Dun Laoghaire-Rathdown County Development Plan 2022-2028;
- (c) Housing for All - a New Housing Plan for Ireland 2021;
- (d) the National Planning Framework which identifies the importance of compact growth;
- (e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (h) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (i) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (j) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (k) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (l) The pattern of existing and permitted development in the area;
- (m) The submissions and observations received on the submitted application and to the Oral Hearing;
- (n) The Chief Executive Report and presentations to the Oral Hearing from the Planning Authority;
- (o) The report of the Inspector dated 24<sup>th</sup> March 2022, as well as the addendum Inspector report.

### **Appropriate Assessment**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the original report of the Inspector (dated 24<sup>th</sup> March 2022) and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have effects on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.



## **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
  - (b) The existing use on the site and pattern of development in surrounding area;
  - (c) The availability of mains water and wastewater services to serve the proposed development,
  - (d) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
  - (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
  - (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
  - (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the 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,
- the Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

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

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

## **7.0 Conditions**

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

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

2. The proposal shall be amended as follows:
  - (a) The proposal shall be amended in line with the details as set out in Section 7 'Response to Agenda Items – Alternative Proposal' of the document entitled 'Presentation prepared for An Bord Pleanála Oral Hearing 22nd June 2022' as submitted to the Board on 20<sup>th</sup> June 2022. In this regard, the three storey element over Dun Leary House (A Protected Structure) shall be set back as detailed in this document, with the subsequent omission of 7 no. units. The remaining quantum of units permitted therefore is 139 no. units
  - (b) The mix of units shall be as detailed in Appendix 1 – Schedule of Accommodation-Updated Summary 'Alternative Proposal' of the document entitled 'Presentation prepared for An Bord Pleanála Oral Hearing 22nd June 2022' as submitted to the Board on 20<sup>th</sup> June 2022.

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

**Reason:** In the interests of architectural heritage and to safeguard the special architectural interest of the Protected Structure.

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

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

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

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

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

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

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

**Reason:** In the interests of orderly development and clarity.

7. Prior to the occupation of the development, details of the proposed end user of the ground floor retail unit shall be submitted for the written agreement of the planning authority. Class 2 office or professional uses shall not be permitted without a separate grant of planning permission. In addition, prior to the occupation of this unit, details of proposed opening hours, signage, lighting, shopfronts and layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

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

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

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

9. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

(a) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.

(b) Prior to commencement of development, the applicant shall demonstrate in their report that the access to the undercroft parking has adequate/sufficient visibility between exiting vehicles and pedestrians passing on the adjacent footpath on the N31, and vice versa. This may be via recessed entrance and or improved visibility through the wall/side gate right and left of this access point.

(c) Prior to commencement the Applicant shall carry out any required amendments, which shall be approved in writing by the Local Planning Authority, to the submitted proposed roads layout, as shown on the submitted DBFL Consulting Engineers Drawing titled Roads Layout (Dwg.

No. 190057-2001), to take account of any DLRCC Temporary Covid-19 Mobility Measures that may be in place on the Old Dun Leary Road, Dun Laoghaire at the time of construction of the proposed development.

- (d) Prior to commencement the Applicant shall comply, at their own expense, with the submitted Bruton Consulting Engineers Stage 1 Road Safety Audit's recommended/alternative measures as accepted/agreed by the design team in the submitted Audit Feedback Form for the proposed development. The Applicant shall liaise with the Local Planning Authority, and/or any other relevant party, as necessary to carry out the Road Safety Audit recommended/alternative measures and actions. Notable actions required include:
- a. Stoplines and or other required amendments to the cycle track to give advanced warning to cyclists of the pedestrian crossings.
  - b. Removal or relocation of ESB pole on the southern end of the N31 to improve visibility and relocation of the N31 pedestrian crossing closer to the Cumberland street.
  - c. Stop line set back on Cumberland streets to allow larger vehicular to manoeuvre the junction without encroaching the cycle track. This shall be demonstrated on a revised junction layout drawing and autotrack drawing
  - d. Widened pedestrian crossing near the entrance to allow cyclist and pedestrian to cross the road to access the cycleway.
  - e. Adequate drainage for the pedestrian crossing points.
- (e) A Quality Audit shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage which is to be submitted to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (f) The proposed development shall be undertaken in accordance with the recommendations and mitigation measures of the Traffic and Transport Assessment.

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

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

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

10. A minimum of 20% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

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

name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

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

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

13. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

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

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

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

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

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

**Reason:** In the interest of public health.

17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

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

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

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

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

20. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

21. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and



other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

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

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

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

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

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

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

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

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

The assessment shall address the following issues:

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

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

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

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

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

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

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an

agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Dun Laoghaire-Rathdown County Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Rónán O'Connor  
Senior Planning Inspector  
5<sup>th</sup> December 2022