



An  
Bord  
Pleanála

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

## Inspector's Report ABP-312132-21

---

### Strategic Housing Development

419 no. build-to-rent residential units  
(7 no. houses, 412 no. apartments),  
creche and associated site works.

### Location

Old Bray Road, Cornelscourt, Dublin  
18.  
([www.cornelscourtplanning2.ie](http://www.cornelscourtplanning2.ie))

### Planning Authority

Dun Laoghaire Rathdown County  
Council

### Applicant

Cornel Living Ltd.

### Prescribed Bodies

Irish Water; Transport Infrastructure  
Ireland.

### Observer(s)

1. Angela and Anthony Lincoln

2. Blathin O'Shea
3. Brian and Clare Freeman
4. Brian Moore
5. Brian Murphy
6. Christine Cotterell
7. Colette Haskins
8. Colin Tuite
9. Dara Hickey
10. David Cotterell
11. Declan and Rachel O'Keefe
12. Dermot Caffrey
13. Dermo O'Neill
14. Donal O'Beirne
15. Edward P and Noreen Farrell
16. Eimear Smith
17. Elaine Cameron
18. Elaine Cronin
19. Elizabeth and Joseph Peake and others
20. Foxrock South Residents Association (Feargall Kenny)
21. Frances Caffrey
22. Helen O'Beirne
23. Jane Winning
24. Janet Buckley
25. Jason Mahood
26. Jenna O'Neill

27. John Conway and The Louth  
Environmental Group (BKC  
Solicitors)
28. Kathryn O'Neill
29. Kevin Moore
30. Laura O'Neill
31. Lewis Winning
32. Maeve and Michael Sweeney
33. Marguerite Cotterell
34. Mark Cotterell
35. Marylouise McMahon
36. Matthew Ryan
37. Maurice and Therese Moynihan
38. Michelle Cahill
39. Naomi Ryan
40. Niamh Crowley
41. Noel and Enda O'Reilly
42. Noel King
43. Patrick and Margaret Laverty
44. Paul O'Neill
45. Sean Carty
46. Siobhan Moore
47. Sue and Ger Ryan
48. Theresa Bannister
49. Therese McDonnell
50. William Haskins
51. Willow Grove Residents  
Association (Marston Planning)

**Date of Site Inspection**

11<sup>th</sup> February 2022

**Inspector**

Una O'Neill

## Contents

1.0 Introduction .....	6
2.0 Site Location and Description .....	6
3.0 Proposed Strategic Housing Development .....	7
4.0 Planning History.....	10
5.0 Section 5 Pre Application Consultation .....	11
6.0 Relevant Planning Policy .....	15
7.0 Observer Submissions.....	22
8.0 Planning Authority Submission .....	28
9.0 Prescribed Bodies.....	36
10.0 Oral Hearing Request .....	36
11.0 Assessment.....	38
12.0 Screening for Appropriate Assessment.....	119
13.0 Environmental Impact Assessment .....	140
14.0 Recommendation .....	161
15.0 Reasons and Considerations .....	161
16.0 Recommended Draft Order .....	163
17.0 Conditions .....	169

## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The site, with a stated area of 2.15 hectares, is located at the northern end of Cornelscourt Village, in county Dublin. The site is located on the eastern side of the Old Bray Road (main street through Cornelscourt), which is bypassed by the N11. There is a QBC and segregated cycle lane on the N11 at this location.
- 2.2. The site has c. 70 m frontage onto the Old Bray Road between an AIB bank and a petrol station and c. 150 m frontage along the N11. The site shares a vehicular access off the Old Bray Road with an AIB bank. The site is bounded to the northeast by the N11 / Stillorgan dual carriageway; to the northwest by a modern three-storey commercial building (AIB Bank) and associated car park and access street; to the south/southeast by a petrol station, a two storey unit with takeaway at ground level and an adjoining laundrette, and a terrace of single storey cottages which back onto the site; and to the east/southeast by the rear gardens of two-storey houses fronting onto Willow Grove and the Old Bray Road.
- 2.3. Cornelscourt Village is a historic village centred on the Old Bray Road. There is a parade of shops / purpose-built two storey neighbourhood centre opposite the subject site (londis, florist, pharmacy and clothes shop), adjoining which is a more modern three storey office development of the same height. South of the neighbourhood centre is a small scale Dunnes Stores retail unit (former Magic Carpet pub), adjoining which are some commercial units. Cornelscourt Shopping Centre is located c. 500 m to the south of the site, on the southern side of the village. There are primary schools located proximate to the main street/Old Bray Road, on Mart Street. There is a GAA club c. 250m to the south off the main street and Cabinteely Park is c. 800 from the site, on the southern side of the village. The surrounding area is generally suburban in character.

2.4. The site is currently vacant and undeveloped, save for a hardstanding area that was a former temporary car park in the north of the site. The external boundaries to the Old Bray Road and N11 are enclosed by palisade fencing. There is a berm along the boundary with the N11 and part of the northwestern boundary with the AIB bank. There is little vegetation on the site by way of trees and hedgerows. There are trees adjoining the site on the N11 and to the northwest on the AIB site. The topography of the site falls in a northwest to south east direction (50.9 to 54.6 m AOD). There is an area cordoned off to the east of the site with signage indicating Japanese Knotweed.

### 3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the construction of 419 no. Build-to-Rent dwellings on a site located at Cornelscourt Village, Dublin 18. The proposed residential development comprises 412 no. apartment units (consisting of 294 no. one-bed apartments, 111 no. two-bed apartments, and 7 no. three-bed apartment units) and 7 no. three-bed houses. The proposed apartments are arranged in 5 no. Blocks which range in height from 4 no. storeys to 12 no. storeys over basement/podium level. The proposed houses are two storey in height.
- 3.2. An EIAR and an AA Screening have been submitted with the application.
- 3.3. The following tables set out some of the key elements of the proposed scheme:

#### Key Figures

<b>Site Area Net</b>	2.15 ha
<b>No. of Residential Units</b>	419
<b>Density</b>	195 u.p.h
<b>Childcare Facility</b>	258 sqm – capacity of 50-60 children
<b>Residential Amenity Space</b>	779 sqm – gym; tenant amenity lounges; concierge; multi purposes pavilion building within the communal courtyard between blocks A and B
<b>Other Uses</b>	Café/retail unit (264sqm)
<b>Public Open Space</b>	4703 sqm

<b>Height</b>	<p>4-12 storeys apartment blocks and 2 storey houses:</p> <p>Block A – part 5, part 6, up to 12 storeys</p> <p>Block B – part 5, up to 9 storeys</p> <p>Block C – part 6 storey over podium and 7 storey over lower ground level to the east</p> <p>Block D – 4 - 5 storey building over podium level, and 6 storey building over lower-ground level (eastern wing only)</p> <p>Block E – 4 storeys</p> <p>Houses – 2 storeys</p>
<b>Dual Aspect</b>	54%
<b>Part V</b>	42 units in Blocks A, B, C and D

#### Unit Mix

	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>Total</b>
<b>Apartments</b>	294	111	7	
<b>Houses</b>			7	
				419
<b>As % of total</b>	70.17%	26.49%	3.34%	100%

#### Parking Provision

<b>Car Parking</b>	237 (236 at basement; 1 at surface level) + 10 motorcycle spaces at basement
<b>Bicycle Parking</b>	819 (664 at basement; 155 at ground level)



- 3.4. The primary vehicular access to the site is proposed from the Old Bray Road, via an existing access to the AIB bank and will be shared with the AIB. The proposed development includes a new pedestrian and cyclist connection along the N11 from the northwest corner of the site to the N11/Old Bray Road junction. A pedestrian connection is proposed also to the main street adjoining the existing petrol station. A future potential pedestrian and/or cycle connections to Willow Grove is indicated.
- 3.5. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer, in addition to a wastewater storage balancing tank and pumping station on site. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject to a valid connection agreement being put in place and conditions listed, the proposed wastewater connection to the Irish Water network can be facilitated.
- 3.6. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:
- Planning Report and Statement of Consistency
  - Material Contravention Statement
  - Environmental Impact Assessment Report Non-Technical Summary, Volume I (Main Document), and Volume II (Appendices Ch 7 & 13).
  - Natura Impact Statement
  - Architectural Design Report, including Schedule of Accommodation, HQA, Dual Aspect Analysis Report, and Building Height Report
  - Landscape Design Statement
  - Landscape Hardscape Strategy
  - Arboricultural Assessment Report
  - Tree Constraints & Protection Plans
  - Infrastructure Design Report
  - Site Specific Flood Risk Assessment
  - Preliminary Construction Environmental Management Plan

- Traffic and Transport Assessment Report
- Mobility Management Plan
- Parking Management Strategy
- DMURS Design Statement
- Preliminary Design Stage Quality Audit
- Ground Investigation Report
- Resource & Construction Waste Management Plan
- Operational Waste Management Plan
- Sunlight Daylight Assessment Results
- Site Lighting Layout Report
- Energy and Sustainability Report
- Universal Assess Statement
- Property Management Strategy Report
- Building Lifecycle Report
- Schools Demand Assessment
- Verified Views & CGI's

#### **4.0 Planning History**

- ABP-306225-19 – SHD application REFUSED for 468 BTR units, with 274 car parking spaces.

Reasons for refusal:

1. The proportion of single aspect apartments in the proposed development would contravene Specific Planning Policy Requirement 4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018. In addition, the level of communal open space provision is below the minimum standard set out in Appendix 1 of the

guidelines. The proposed development would, therefore, fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to Ministerial guidelines issued to planning authorities under section 28 of the Planning and Development Act 2000, as amended.

2. The proposed development would be premature having regard to the existing deficiencies in the wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease.

- D17A/0597 – Permission GRANTED for retention of temporary car park for retail and construction staff at Cornelscourt Shopping Centre for a period of three years.
- VS-0011/ABP PL06D.301161 – site entered on vacant site register.
- VX06D.307450 – ABP deregistered the site on 11<sup>th</sup> May 2021.

## **5.0 Section 5 Pre Application Consultation**

### **5.1. Pre-Application Consultation**

5.1.1. A Section 5 pre application consultation took place via Microsoft Teams due to Covid-19 restrictions on the 28<sup>th</sup> July 2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála (Ref. ABP-310042-21) and that the following specific information should be submitted with any application for permission:

1. Additional water and wastewater details which addresses matters raised in the report of Irish Water, dated 31st May 2021 to An Bord Pleanála. The documentation at application stage should clearly indicate the nature of infrastructural constraints, the proposals to address the constraints, the timelines involved relative to the construction and completion of the proposed development and any statutory consents required. (The prospective applicant may wish to satisfy themselves that an application is not premature having regard to the information sought above).

2. Further consideration and/or justification of the documents as they relate to the height, density and design strategy proposed, in the context of the concerns expressed by the planning authority in their Opinion and at the pre-application consultation meeting. In this regard, the prospective applicant should satisfy themselves that the design strategy for the site as it relates to height and density provides the optimal architectural solution for this site and should submit a rationale/justification for the heights/density proposed. CGIs, visualisations and cross sections, as necessary, should be submitted which clearly show the relationship between the proposed development and existing development in the immediate and wider area and from strategic viewpoints along the N11, and which illustrates the topography of the area. The proposed development shall have regard to inter alia, national policy including the National Planning Framework and Sustainable Urban Housing: Design Standards for New Apartments (2020) and local planning policy, the site's context and locational attributes. Furthermore, the applicant is advised that an appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant Development Plan and that specifically addresses any matter that maybe considered to materially contravene the said Plan, if applicable, should be submitted.
3. A Materials Strategy that specifically addresses the proposed materials and finishes for buildings, open spaces, paved areas and boundaries, having regard to the requirement to provide high quality and sustainable finishes and details. This strategy shall include details of the colour, tone and texture of materials and the modelling and profiling of the materials (including any cladding or framework system) on each block. Particular attention is required in the context of the strategic location and visibility of the site and to the long term management and maintenance of the proposed development. A Building Lifecycle report should also be submitted in this regard, which includes an assessment of the long term running and maintenance costs associated with the development in accordance with Section 6.13 of the 2020 Guidelines on Design Standards for New Apartments.

4. A report which address existing and future residential amenity and which includes matters such as daylight/sunlight analysis, micro-climate/wind impacts and noise impacts, together with proposals to address any such impacts, if necessary. A Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, should include details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. A month-by-month assessment of average daylight hours within the public open space should be provided within the Daylight and Sunlight Analysis document to allow for a full understanding of the year round level of overshadowing of the primary outdoor recreation areas for the development should be submitted. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
5. A housing quality assessment which provides specific information regarding the proposed apartments and which demonstrates compliance with the various requirements of the 2020 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements. This should also include a schedule of floor areas for all proposed units, clearly setting out the aspect (single, dual, triple) of each unit. A drawing clearly indicating units considered to be dual aspect should also be submitted.
6. A detailed landscaping plan for the site which clearly differentiates between areas of public, communal and private open pace and which details exact figures for same. Details should also include proposals for hard and soft landscaping including street furniture, where proposed, which ensures that areas of open space are accessible, usable and available for all. Pedestrian permeability through the site should be outlined. Details of the interface between private, public and communal areas should also be detailed. Additional cross sections, CGIs and visualisations should be included in this regard.
7. Additional details in relation to surface water management for the site, having regard to the requirements of the Drainage Division as indicated in Appendix B of the Planning Authority's Opinion (dated May 7th 2021). Any surface

water management proposals should be considered in tandem with a Flood Risk Assessment specifically relating to appropriate flood risk assessment that demonstrates the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk. A revised/updated Site Specific Flood Risk Assessment should be submitted which addresses the matters raised in the Drainage Report (dated 07/05/2021) of the PA, as contained in Appendix B of their Opinion

8. Additional details in relation to roads, access and circulation, having regard to the report of the Transportation Division of the planning authority as detailed in Appendix B of their Opinion (dated 14th May 2021). In addition, a car parking strategy that provides further justification for the level of car parking proposed should be submitted. The justification should include an analysis of car parking demand that is likely to be generated by the proposed development taking account of the locational context and level of connectivity (by all modes) to services and employment generators.

9. Taking in Charge details.

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

## 5.2. **Applicant's Statement**

- 5.2.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the specific information raised in the Opinion.
- 5.2.2. It is noted that a Material Contravention Statement was also submitted with the application documentation.

## 5.3. **Applicant's Statement of Consistency**

- 5.3.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with the policies and objectives of section 28 guidelines and the operative Development Plan.

## 5.4. **Applicant's Statement on Material Contravention**

5.4.1. The application documentation includes a report titled Material Contravention Statement, which relates to issues of:

- Building Height
- Car Parking
- Apartment Standards and BTR
- Separation Distances

These issues shall be addressed further within the main assessment.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

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

A number of key policy objectives are noted as follows:

- National Policy Objective 2(a): A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.
- National Policy Objective 3(b): Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints.
- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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

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

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)
- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)



## 6.2. Regional Policy

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

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

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

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

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

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

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

### 6.3. Local Planning Policy

6.3.1. The operative development plan is the Dun Laoghaire Rathdown Development Plan 2016-2022. I note the Dun Laoghaire Rathdown Development Plan 2022-2028 was adopted by the elected members on 10<sup>th</sup> March 2022. The new plan will come into effect six weeks after its adoption.

#### 6.3.2. Dun Laoghaire Rathdown Development Plan 2016-2022:

- Majority of the site comprises Zoning Objective ‘A’ ‘to protect and/or improve residential amenity’, with a small portion comprising Zoning Objective ‘NC’ which seeks ‘to protect, provide for and / or improve mixed use neighbourhood centre facilities’. The lands adjoining to the southeast at Willow Grove are zoned A, while lands to the south west and northwest are zoned NC. Residential is permitted in principle, while restaurant / café uses are open for consideration within the A zone.
- There are no Specific Local Objectives (SLO’s) applying to the development site (Development Plan Map 6).
- Cornelscourt is identified as a ‘Secondary Centre’ in the Development Plan Core Strategy and sits at the second tier of the settlement hierarchy below the ‘Major Centre’ settlements of Dun Laoghaire and Dundrum.

The following policies are noted:

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

## **Section 2 Sustainable Communities Strategy**

- **Policy RES3:** It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines: • 'Sustainable Residential Development in Urban Areas' (DoEHLG 2009). • 'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009). • 'Quality Housing for Sustainable Communities' (DoEHLG 2007). • 'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013). • 'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013).
- It is stated under RES3 that 'Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged'.
- It is stated 'As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas....To enhance and protect ACA's, cACA's, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings new

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

- **Policy RES4:** It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.
- **Policy RES7:** It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.
- **Policy ST3:** It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009 –2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy.
- **Policy ST15:** It is Council policy to promote, facilitate and co-operate with other agencies in securing the extension of the Luas network in the County as set out in the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’ and including any future upgrade to Metro

### **Section 8 Development Management**

- S. 8.2.3.1 Quality Residential Design - Density - Higher densities should be provided in appropriate locations. Site configuration, open space requirements and the characteristics of the area will have an impact on the density levels achievable.
- S.8.2.3.2, Quantitative Standards, (ii) Residential Density - In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (2009). As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location and accessibility to public transport. However,

the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied... In Dún Laoghaire-Rathdown, apart from in exceptional circumstances, minimum residential densities should be 35 dwellings per hectare.

- S.8.2.3.3(iii), Mix of Units
- S.8.2.3.3(vii) Minimum Apartment Floor Areas
- S.8.2.3.5 Residential Development – General Requirements – (ii) Habitable Room Sizes: The minimum size of habitable rooms for houses/ apartments/and flats shall conform with appropriate National guidelines/standards in operation at the date of application for planning permission, including the minimum dimensions as set out in ‘Sustainable Urban Housing: Design Standards for New Apartments’ and ‘Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007)
- S.8.2.4.5 Car Parking Standards - The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. The Council considers the application of maximum parking standards for non-residential land uses to be a key measure in influencing the travel mode choice for all journeys...Reduced car parking standards for any development (residential and non-residential) may be acceptable, dependant on...[list of factors given].
- Table 8.2.3 Residential Land Use - Car Parking Standards.
- Table 8.2.4 Non Residential Land Use – Maximum Car Parking Standards.
- Table 4.1 sets out the cycle parking standards.

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

Section 3.3, Public Transport Corridors - The N11, owing to its width, strategic importance, and public transport facilities, has the potential to become an attractive urban corridor enclosed by taller buildings of high quality, at locations which are also proximate to social and community infrastructure.

Section 4.8 – Policy for Residual Areas not included within the Cumulative Areas of Control: Apartment or town-house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity.....There will be situations where a minor modification up or down in height could be considered. The factors that may allow for this are known as ‘Upward or Downward Modifiers’.

Section 4.8.1 Upward Modifiers: Circumstances where Upward Modifiers may apply are listed. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one ‘Upward Modifier’ criteria.

Section 4.8.4 Downward Modifiers: Circumstances where Downward Modifiers may apply are listed.

#### 6.4. **Designated sites**

- 6.4.1. The site is not located within or adjoining a European site or nationally designated site.

### 7.0 **Observer Submissions**

- 7.1. In total 53 submissions were received, of which 2 were from prescribed bodies (see section 9 hereunder in relation to prescribed bodies). The submissions were primarily made by or on behalf of local residents.
- 7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

#### Planning Policy and Development Plan

- Material contravention of development plan, which cannot be justified by reference to s.37 of the Planning and Development Act 2000.
- Material contravention in relation to residential mix, apartment standards, unit mix, residential density, separation distances and car parking.
- Scheme does not comply with zoning of the site.
- Cornelscourt is not identified as a centre in the draft development plan.

- To grant permission on basis of Building Height Guidelines and Apartment Guidelines would be ultra vires and not authorised by section 28(1C) of the Planning and Development Act 2000 (as amended). The section of the act that authorises the guidelines is unconstitutional/repugnant to the constitution. Also contrary to SEA.
- Proposal does not comply with Building Height Guidelines in relation to Criteria and Specific Assessments section, including in relation to birds/bats.
- Proposed development is not of strategic or national importance.
- Documentation does not comply with requirements of 2016 Act and associated regulations in relation to detailed plans and particulars, including in relation to the proposed basement level of the proposed development.
- Site notice does not comply with regulations as it does not contain a complete description of the proposed development.

#### Density, Design and Layout

- Excessive height, scale, and density of development relative to surrounding area.
- Building height materially contravenes the development plan.
- Varying ground level means scheme appears more dominant when viewed from N11 and from Willow Grove.
- Density is excessive for the site.
- Scheme is out of character with the area.
- Other high density apartment schemes along the N11 such as The Grange, Beechwood and Booterstown Wood have building heights between 6 and 10 storeys. Such developments insofar as they occur along the N11 corridor are located closer to the city and none are as high as 12 storeys.
- Negative impact on the visual amenity of the area and neighbouring residential areas.
- Insufficient photomontages. CGIs submitted are not representative of the site.
- Cumulative impact of development.
- Locality needs affordable housing, not build to rent units.

- Lack of amenities for the scheme and open space.
- Cornelscourt is a small village and cannot sustain this development.
- Too many one beds and not enough three beds. A lot of people want to downsize in the area but to three bed apartments.
- Poor mix of units types and insufficient provision of family sized units.
- Built to rent nature of proposed development would result in transient tenants.
- Noise and safety impacts arising from located of proposed substation.
- Documentation has not demonstrated there is sufficient infrastructure capacity including public transport, drainage, water services and flood risk.

#### Impact on Residential Amenity

- Negative impact on daylight and sunlight reaching neighbouring properties.
- Impact on privacy, overlooking, and overbearance.
- Negative impact on single storey cottages on Old Bray Road; Willow Grove; South Park; and Old Bray Road.
- Proposal fails to provide adequate level of residential amenity for future occupants.
- Visuals do not show scheme clearly from Old Bray Road, Willow Grove or Mart Road, with images hiding the buildings behind trees, eg VVM24, VVM25 and VVM21.
- Green area by Willow Grove is in use and managed by residents of Willow Grove since estate was developed. There should be no link with the site.
- Open space in Willow Grove is in the private ownership of two persons/companies and contains a significant amount of planting bounding the N11.
- Inadequate separation distances from existing properties.
- Overlooking, overshadowing, overbearance, loss of privacy and visual impacts on adjoining properties.
- Inadequate daylight, and sunlight and visual impact analysis undertaken.



- Impacts on amenity space, security and safety arising from potential future pedestrians and cycle connection to open space at Willow Grove, which has not been taken in charge.
- Balconies facing Willow Grove from Block C should comprise opaque glazing.
- Negative impact on property values in the area.
- Noise impact of N11 on future apartment residents.
- Impact on residential amenity during construction.
- Light spill from apartments on existing residents.
- Location of foul storage tank and potential smells.
- Inadequate capacity of foul drainage network.
- Impact of noise from large ESB substation on residents in Willow Grove.
- Detrimental impact on existing residents and heritage of the village
- Devaluation of property as confirmed by estate agent
- Japanese Knotweed
- Lack of capacity in schools and GPs

#### Open Space and Community Facilities

- Insufficient healthcare, creche, school (particularly primary school places) and recreation facilities in the area.
- A number of developments already permitted relying on existing infrastructure which is inadequate to cater to increased population needs.
- There are already enough cafes in the village.
- Cumulative impact of scheme with other SHDs in terms of social, educational, health service capacity in the catchment area.
- Proposed access to Willow Grove – safety issues/concerns for residents and children that use that open space.

#### Traffic and Transportation

- Impacts on local roads, N11 and surrounding junctions which are currently heavily trafficked.
- Impacts on traffic and pedestrian safety.
- Inadequate car parking and overspill into surrounding areas.
- Inadequate capacity of vehicular access.
- Inadequate/oversubscribed public transport services.
- No car parking for creche/retail users.
- Insufficient public transport to serve the development.

### Ecology

- Scheme does not adequately assess impact on ecology.
- Presence of Japanese Knotweed on the site.

### EIAR and AA

- Deficiencies in relation to the Water Framework Directive. EIAR fails to identify status of Deansgrange Stream/Kill O the Grange Stream under the Water Framework Directive, and as examined in letter attached by FP Logue Solicitors.
- Inadequate and deficient EIA, AA Screening document and NIS and deficiencies in relation to the water framework directive.
- AA – insufficient surveys to assess potential impact from bird collisions/flight risk and bird flight paths.
- Zone of influence in AA and NIS is not reasoned or explained.
- AA Screening and NIS fails to identify and consider all protected bird species, including by collision flight risk during construction and operation phases and loss of ex-situ feeding sites.
- AA Screening Report and NIS has regard to mitigation measures.
- Cumulative effects inadequately considered.
- Insufficient site-specific surveys for the purposes of AA Screening and NIS and absence of site specific scientific evidence.

- Reliance on Ringsend WWTP misconceived for purposes of AA Screening.
- Impacts on conservation objectives of SPAs and SACs inadequately explained.
- Board lacks ecological and scientific expertise in order to examine EIA Screening Report.
- EIAR when read in conjunction with Construction and Waste Management Plans provides insufficient information of potential pollution and nuisances arising.
- EIAR insufficient in relation to human health, such as noise/dust/vibrations etc and mitigation measures relevant to same; failure to assess impact of increased population on services including schools, childcare and medical care; failure to address impacts of reduced daylight and sunlight on human health on sensitive receptors; impact on all species identified on the site has not been addressed, including frog species; biodiversity chapter inadequate in that it fails to identify the quantum of individual species affected.
- EIAR has failed to provide a comprehensive cumulative assessment of the project.

#### Water Services.

- Inadequate foul and storm water drainage.
- Odours/waste from proposed sewerage tank location at Willow Grove.
- Lack of consent for works relating to surface water and foul sewers which are not within the red line boundary.
- Premature due to existing deficiencies in wastewater sewerage network.

#### Other Matters

- Building height guidelines are legally unsound.
- Proposal is not of strategic or national importance.
- Site notice is inadequate in description.
- ABP does not have sufficient expertise to assess environmental impact.
- Building Height Guidelines should not facilitate building height above County Development Plan.

- County Development Plan is linked to RSES and NPF, therefore there can be no room for interpretation of material contravention at local level.
- New scheme does not sufficiently address previous reasons for refusal by An Bord Pleanála.
- No units for purchase.

## 8.0 Planning Authority Submission

### 8.1. Overview

8.1.1 In compliance with section 8(5)(a) of the 2016 Act, Dun Laoghaire Rathdown County Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 8<sup>th</sup> February 2022. The report notes the planning history in the area, policy context, site description, proposal, summary of observer submissions, and summary of views of the relevant elected members. The submission includes several technical reports from relevant departments of Dun Laoghaire Rathdown County Council. The Chief Executive's Report concludes that it is recommended that permission be refused. The CE Report from Dun Laoghaire Rathdown County Council is summarised hereunder.

#### 8.1.1. Summary of Inter-Departmental Reports

- Drainage Planning Section – concerns in relation to lack of engagement at pre planning stage in relation to modelling details and information in relation to management of the storage tank and pumping station. Conditions recommended.
- Transportation – concerns in relation to parking and other issues as raised in the submitted Quality Audit, which have not been incorporated into the scheme and if implemented may affect the proposed layout.
- Parks Division – concerns in relation to the quality and quantum of open space.
- Public Lighting – changes and conditions recommended in relation to detailed lighting provisions.
- EHO – conditions recommended.

#### 8.1.2. Summary of View of Elected Members:

- Concern about scale and density of development.
- Proposal would be expected in the city centre, not in the suburbs of Dublin.
- Scheme will have a harmful impact on existing surrounding residents.
- Scheme does not facilitate downsizers – not enough 3 beds.
- Scheme does not facilitate those looking to get onto property ladder (BTR).
- Dublin Bus is at capacity.
- Significant concern about a lack of car parking. Luas is too far away.
- Women’s safety – getting to and from work. There won’t be any increase in gardai and there are not enough car parking spaces.
- Lack of parking for creche staff/users.
- Notable concerns about sewerage tank. If capacity is not there, warning bells should ring. Infrastructure should be there first and then a scheme is granted planning permission.
- Insufficient information on water/foul sewerage issues.
- Not clear why the sewerage tank needs to be by Willow Grove.
- Proposed sewerage tank does not take into account residents at Willow Grove.
- Detail missing on cycle parking – how these would be allocated across the difference users on the site, creche, retail, etc.
- Cherrywood can only built to 8 storeys yet potential of this scheme to up to 12 storeys adjacent to bungalows/2 storey houses.
- Note potential access to Willow Grove is shown. Query how this is to be delivered. DLR Co. Co. owns the land.
- Issue of car parking and parking in the area. Already an issue in Willow Grove.
- Proposed mix of units has too many 1 bed and 2 bed units.
- Cross sections are not reflective of current situation onto Willow Grove.
- Location of ESB substation by Willow Grove raises concerns.
- Development should be pushed closer to N11, away from Willow Grove.

- New development plan – BHS3 – building height generally permits 3-4 storeys here but most important is the strong balance between new development and existing residential building height/amenity.
- A lot of uncertainty and unknowns about the development.
- There should be a buffer between the proposed development and the existing surrounding residents.
- SHD process does not facilitate public consultation.
- Lack of policing for the area.
- Planning needs to be about ensuring a good place to live/quality of life. This includes ensuring sufficient GPs/schools etc in the area to cater for the scheme.
- It is appalling that every bit of hedgerow has been removed and consequently it is too late to retain it. This has only been removed in recent years.
- High density is a concern for this area.
- High buildings are being used to solve housing need.
- As a build to rent scheme, there will be no home ownership.
- Scheme does not represent sustainable planning.
- Development is not about creating a community, its about number of units.
- Unclear how a future issues with the proposed sewerage would be managed.
- Apartment mix breaches Dun Laoghaire Rathdown Co. Co. and apartment guidelines.
- If application is assessed post new development plan being adopted, it is hoped the Board will push the development away from Willow Grove due to the new F zoning on the eastern part of the site.
- Process does not allow for technical questions to be answered. Its too late.

### 8.1.3. **Planning Analysis**

#### Principle of Development:

- Acceptable.

### Density:

- The site is an intermediate location as per the Building Height Guidelines, which would be suitable for small scale high density development or large scale medium density developments with some apartments. The proposed development is considered large scale and at odds with the Apartment Guidelines.
- An increase in density above the development plan's recommendation of 50 units per hectare would be considered appropriate, however, proposed at 195 units per hectare is over four times that indicated in the development plan and is indicative of over development.

### Height, Scale and Mass:

- Separation distances an issue.
- Height is over double maximum of 6 storeys in development plan and is a material contravention.
- SPPR3 of Building Height Guidelines has been considered. At the scale of the relevant city/town - Proposal fails in terms of visual impact and does not integrate new streets or public spaces and fails to respond to it's existing context. At the scale of district/neighbourhood/street – visual impact from amenity areas within the surrounds and would be overbearing upon same; proposal does not respond appropriately to the existing natural and build environment and does not make a positive contribution to the urban neighbourhood or streetscape.
- The site is within the catchment area for Development Contributions for the Luas B1 line and is adjacent to a QBC. Public transport within the surrounds is adequate to justify a higher density at this location, however, density is excessive and unjustified.
- Justification for height is based on proximity to N11, existing tall buildings along N11, quality of material proposed, positive outcome of daylight and sunlight and microclimate assessments. However, it is the view of PA that it would not integrate in a cohesive manner with the immediate context. Justification is not strong and proposal would not make a positive contribution to the legibility of the area.

### Urban Form:

- Concerns in relation to juxtaposition with surrounding low rise buildings and 2 storey houses. Scheme has architectural merit and would be welcomed in more central city/urban based locations.
- Refusal recommended, however it may be possible to amended by way of condition.

#### Residential Amenities – Privacy and Overlooking

- Separation distances of 20m between taller blocks and reduces to c. 13/16-18 from single storey cottages and 2 storey dwellings.

#### Residential Amenities - Daylight/Sunlight and Overshadowing

- There are units which do not comply with BRE standards.
- Notable concerns about the open space adjacent to Block D, which is overshadowed.
- Corner apartments within Block D are not favourable. If broken into two blocks, results would be more favourable.

#### Residential Amenities – Noise/Wind

- Site adjoins N11. Details submitted in Architectural Design Report and EIA report. Not clear what mitigation measures will be implemented. EIA is less prescriptive and says any proposed measures are subject to change.
- PA not in favour of winter gardens but in this case it would shield from noise on N11.
- Under wind assessment, majority of areas acceptable.

#### Wastewater Infrastructure

- Concerns in relation to wastewater holding tank infrastructure upon the residential amenity of existing surrounding properties and future residents.
- Limited value of amenity area over the holding tank.
- Public height impacts if there is a system failure, overland flow of septic matter being a primary concern. It is unclear who will have responsibility for maintaining the foul balancing tank or respond to emergencies. It is unacceptable for overflow from the foul balancing tank to flow towards the surface water system or public open



space. A condition is recommended from Drainage Section in relation to requirement for landscaped bunding or similar measures to prevent ingress of excessive overland flows in to the tank and to contain any overflow from the tank in emergencies.

Refusal recommended from PA given uncertainty and application premature on basis of public health risk.

#### Residential Amenities – Public Realm/Open Space

- Development lacks open space, when considered against development plan policy of space per population. Large amount of hardstanding; lack of a primary open space; suboptimal use of raised podium level of open space, which compromises on usability and safety; lack of connections from the scheme to the surrounding area, with one connection to N11 which is gated; lack of connectivity with Willow Grove. Would be positive amendment to omit southern half of Block B to allow for better open space provision, with better access to sunlight and daylight. Block E should also be set back from the boundary.

#### Standard in Accommodation – Internal Standards

- Concern regarding mix and policy RES7, notwithstanding SPPR1.
- Number of dual aspect units acceptable to PA.
- Some units fall below the minimum storage. The PA considers the scheme would benefit from all apartments meeting the minimum storage requirements.
- Scheme lacks community facilities to serve the wider area, which represents a missed opportunity.
- There is an acceptable variety of places for children to play, however, concern raised in relation to lack of a large usable area of high quality open space given sunlight/daylight issues with open space at Block D.
- Proposal does not provide for laundry facilities, work/study spaces nor any communal function rooms for group use with dining and/or kitchen facilities. Tenant amenity lounges, a gym and a single storey multipurpose pavilion are proposed. Development would benefit from additional tenant facilities, particularly given the quantum of one bed units proposed.

- Community Facilities – welcomes retail/café units. However, missed opportunity to provide for future community and/or social facility use.

#### Transportation

- Lack of car parking spaces. 1 per apartment and 2 per 3 bed house should be provided. Shortfall of c. 188 spaces.

#### Taking in Charge

- Proposed foul infrastructure may be subject of separate management/maintenance and taking in charge processes between Irish Water and the application. Future arrangements regarding long term ownership, management and right of way entitlements are unclear. PA wishes to highlight this to ABP.

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

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

1. The height of proposed Blocks A and B would be greater than six storeys permissible in a residual area as defined by the Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would result in an abrupt and significant departure from the prevailing building height in the area. The applicant has not demonstrated to the satisfaction of the planning authority that proposed building heights are appropriate at this location. The proposed development would therefore be contrary to the building height strategy for the county and would materially contravene the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard the proposed design, layout and quality open space provided, in particular the large amount of hard standing, the lack of a primary area of quality open space (noting a large portion of the area by Block D will be overshadowed), the lack of public open space, as well as the suboptimal use of raised podium level open space, it is considered that the proposed development would result in an unacceptable standard of residential amenity for the future occupants of the development. The proposed development would, therefore, be contrary to the public/communal open space

requirements for residential development set out in Section 8.2.8.2 and 8.2.8.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. Having regard to the height, scale and massing of the scheme, it is considered that the proposed development would appear visually obtrusive when viewed from the N11 and surrounding areas and would be visually overbearing when viewed from the residential properties at the northern end of Willow Grove. Furthermore, the proposed development would fail to integrate in a coherent manner with its surrounding context, through its massing, scale and lack of linkages with the surrounding area. The proposed development would therefore give rise to adverse impacts on the visual and residential amenity of the area, and as such would be contrary to the Objective A zoning of the site, to protect and/or improve residential amenity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
4. Having regard to the intermediate urban location of the site, it is considered that the proposed development would be reason of the inadequate number of car parking spaces proposed and appropriate allocation, be contrary to the car parking standards for residential uses set out in Section 8.2.3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and would result in car parking overspill onto surrounding roads. The proposed development would therefore seriously injure the amenities of properties in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.
5. Having regard to the scale and nature of the proposed wastewater infrastructure proposed within the subject site, and in particular the storage tank, and given the lack of clarity regarding the future management and maintenance of same, particularly in the case of an emergency, the planning authority is not satisfied that this aspect of the scheme would not pose a potential risk to public health.

## 9.0 Prescribed Bodies

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

- Irish Water
- Transport Infrastructure Ireland
- Inland Fisheries Ireland
- National Transport Authority

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

Irish Water: Based upon details submitted by the developer and the Confirmation of Feasibility issued by Irish Water, Irish Water confirms that subject to a valid connection agreement being put in place between IW and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.

Transport Infrastructure Ireland: Development should adhere to recommendations of TIA and Mobility Management Plan; TII will not assess future noise complaints arising from N11 etc on scheme if approved; Regard should be had to Chapter 3 of Spatial Planning and National Road Guidelines; Scheme falls within area of Section 49 Supplementary Development Contributions Scheme (Luas).

## 10.0 Oral Hearing Request

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

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

10.2. Two no. observer submissions (from Mark Cottrell of Willow Grove and from Marston Planning Consultancy on behalf of Willow Grove Residents Association) have requested an oral hearing. Issues raised are summarised as follows:

- OH requested due to significant implications on the local community of the scale of the proposal and deficiencies in relation to the Water Framework Directive, with request that IW attend an OH.
- EIA fails to identify status of Deansgrange Stream/Kill O the Grange Stream under the Water Framework Directive, and as examined in letter attached by FP Logue Solicitors.
- Core strategy of plan does not support density proposed at this location.
- Bus capacity limited, under provision of car parking, and excessive traffic
- Height, density, scale and massing
- Overlooking, invasion of privacy, overshadowing, and overbearance
- Visual impact
- Location of attenuation tank
- Inadequate capacity of foul drainage network
- Inadequate public open space
- Contravention of DLR county development plan
- Detrimental impact on existing residents and heritage of the village
- Devaluation of property as confirmed by estate agent
- Japanese Knotweed
- Lack of capacity in schools and GPs
- Lack of consent for works relating to surface water and foul sewers which are not within the red line boundary.

10.3. Having regard to the circumstances of this case, to the issues raised in the observations received by the Board, and the assessment set out in section 11 below, I consider that there is sufficient information available on the file to reach a

conclusion on the matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this instance.

## 11.0 **Assessment**

### 11.1. **Introduction**

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

- Zoning and Principle of Development
- Density
- Development Layout and Urban Design
- Height, Scale, Mass and Design
- Landscape and Visual Impact
- Quality and Residential Amenity of Proposed Development
- Impact on Amenity of Neighbouring Properties
- Traffic, Transportation and Access
- Water Services
- Material Contravention
- Planning Authority Refusal
- Other Matters

These matters are considered separately hereunder.

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

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

#### **11.4. Zoning and Principle of Development**

11.4.1. The proposed development is for 419 build to rent residential units, of which 412 are apartments and 7 are houses. I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

11.4.2. The site is subject to two zoning objectives in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022. The site is governed by zoning objective 'A' 'to protect and / or improve residential amenity' for the most part. A small area at the northern section of the site, where the existing access road is located, is governed by zoning objective 'NC' 'to protect, provide for and / or improve mixed use neighbourhood centre facilities'. Only the access road traverses this area. Within the 'A' zoned lands residential uses are acceptable in principle and café / restaurant uses are open for consideration.

11.4.3. I am satisfied that the proposed development is consistent with the zoning objectives and that no issues of principle arise. The principle of development is therefore acceptable, subject to assessment of other planning matters as set out hereunder. The planning authority in the submitted CE Report concurs that the proposed development is acceptable in principle.

#### **11.5. Density**

11.5.1. The proposed development comprises 419 units on a site of 2.15 ha with a resulting density of 195 units per hectare.

11.5.2. A number of observer submissions have expressed concern in relation to the density of development, which is considered excessive for this location. The CE Report considers that the proposed density is large-scale and thus at odds with the Apartment Guidelines which deem the site an 'intermediate site' and at over 5 times the development plans recommended 50 units per hectare is indicative of overdevelopment.

- 11.5.3. I consider hereunder national policy and the locational context of the site as it relates to density (other planning issues arising in relation to visual impact and impact of design/density on residential amenity are considered further in Sections 11.5 and 11.11 of this report).
- 11.5.4. In terms of the national policy context, the National Planning Framework (NPF) 2018 promotes the principle of 'compact growth' at appropriate locations, facilitated through well designed higher density development. Of relevance is NPO 13, 33 and 35 of the NPF which prioritise the provision of new homes at increased densities through a range of measures including (amongst others) in-fill development schemes and increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within the existing urban envelope. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary. It recognises that at a metropolitan scale, this will require focus on underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 11.5.5. The RSES for the region further supports consolidated growth and higher densities, as per Regional Policy Objective (RPO) 5.4 which states that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards. In relation to Section 28 guidance, the documents Sustainable Residential Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, all provide further guidance in relation to appropriate densities and support increases in densities at appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 11.5.6. The Guidelines on Sustainable Residential Development in Urban Areas (SRDUA) states that for sites located within a public transport corridor, it is recognised that to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities. The guidelines state that minimum net densities



of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, ie within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. With regard to infill residential development, it is detailed that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The guidelines state that the capacity of public transport should be taken into account when considering density. The site can be described as being within a bus corridor, with a QBC along the N11 adjoining the site. I discuss the issue of capacity further hereunder.

11.5.7. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The guidelines address in detail suitable locations for increased densities by defining the types of location in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. It is my view that the site is located in what is described as an 'Intermediate Urban Location' and in accordance with the guidelines such locations can support '...smaller-scale (will vary subject to location), higher density development than may comprise wholly apartments, or alternatively medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net)'. I note the site being above 45 dwellings per hectare net is meeting the minimum guidelines density recommendation. I would highlight the guidelines also state that 'The range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors' and I have had regard to all other relevant planning matters throughout this report in considering the suitability of this development, on this site, at this location.

11.5.8. The Urban Development and Building Height Guidelines (2018) state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively

sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels. These guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. The guidelines allow for the scope to consider greater heights subject to objectives and criteria set down in Sections 2 and 3 of the guidelines. They caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities and high quality architectural, urban design and public realm outcomes, which I consider elsewhere in this report.

11.5.9. The DLR County Development Plan (CDP) 2016-2022 reaffirms the national policy context, as per the Guidelines on SRDUA, and under policy RES3 promotes higher densities in appropriate locations, including within the catchment of high-capacity public transport, and seeks to ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. Under S.2.1.3.3 it is stated that 'Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged'. The development plan highlights the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied.

11.5.10. The CE Report considers that the proposed density at 195, with provision of 149 units is stated in the CE Report to be considered large-scale and thus at odds with the Apartment Guidelines which deem the site an 'intermediate site'. The CE Report states that the density at over 5 times the development plans recommended 50 units per hectare is indicative of overdevelopment. I do not consider the density proposed is at odds with the Apartment Guidelines 2020. This is a higher density development comprising primarily apartments and the Apartment Guidelines do not stipulate that this type of development can only be considered on small scale sites,

acknowledging that the scale can vary subject to location. While the PA suggests that a development over 50 units per hectare is not desirable, the policy of the plan does not state any maximums in relation to density. The policy states a minimum of 50 units per hectare is recommended for this type of site within 1km of a Priority 1 Quality Bus Corridor.

11.5.11. Having regard to the specific locational factors relative to this site, I note the site is located within the northern end of Cornelscourt village, which is designated a 'secondary centre' in core strategy map within the county development plan and as a Level 3 Retail Centre, which is linked to the district centre zoning of the Dunnes Stores Cornelscourt site. There are a number of small shops and services within the village, with local neighbourhood shops located directly opposite the application site. The village includes a district centre zoned area at the southern end of the village (c. 800m from the site) which has Dunnes Stores as an anchor. The site is 800m from Cabinteely Park (45ha park managed by DLR Co. Co.). The site is served by urban bus services, with a QBC along the N11 adjoining the site (see section 11.7.13 in relation to frequency and capacity of service). Given its location adjoining a QBC, higher densities at a minimum of 50 units per hectare will be encouraged as per the operative development plan and the Guidelines on Sustainable Residential Development in Urban Areas. The site is not within a 1500m Luas or rail corridor (I note it is within the contribution scheme area related to the Luas), however a bus service, no 63, does link Cabinteely to the Carrickmines Luas stop (c. 1.8 km from the site/24 minwalk), with the site c. 300m from the no. 63 bus stop, with an average journey time of 8 min to the Luas and frequency of 30 mins. While the Luas stop is beyond the recommended 1000-1500m walking distance of a high capacity service, the site has links to this mode of public transport, as recommended in the Building Height Guidelines under Section 3.2. The cycle network and footpath network also facilitate links between the different modes of bus, LUAS and DART. Cornelscourt is located c. 12 km south of Dublin City and is 7km and 4.5km respectively from the major urban centres of Dundrum and Dun Laoghaire. The site is c. 3km to the Sandyford Business District (high employment area); c. 2.8km to the National Rehabilitation Hospital in Dun Laoghaire; c. 2.2km to Dun Laoghaire Institute of Art, Design and Technology; c. 6km to UCD, with bus links available serving third level institutions of UCD, Trinity, TU Dublin and DCU.

11.5.12. Having regard to national and local planning policy, I am satisfied that the site is sequentially well placed to accommodate growth, being an infill site within a settlement and, in terms of the density proposed of 195 units per hectare, is in compliance with minimum densities recommended under the various scenarios which are considered in existing S.28 guidelines and under the operative development plan, and is therefore acceptable, subject to further assessment in relation to qualitative standards achieved and other planning matters, which is examined throughout this report hereunder.

## 11.6. **Layout and Urban Design**

11.6.1. The layout of the scheme has been informed by the existing site context. The N11 with QBC and segregated cycle lanes bounds the site to the northeast; a three-storey commercial building (AIB Bank) and car park is to the northwest; open frontage to Old Bray Road/main street is to the west and also a petrol station, two storey dwelling with ground floor commercial units and a terrace of cottages is to the southwest; and the rear gardens of two-storey houses at junction with Willow Grove and in Willow Grove to the southeast and east.

11.6.2. Permission was previously refused for an application on this site under SHD ref ABP-306225-19. Sections 1.3 and 3.1 of the submitted 'Planning Report and Statement of Consistency' outlines the differences between the schemes and notes changes made on foot of the previous Inspector's report and addressing of the reasons for refusal. I refer the Board also to the Architectural Design Report which details the response to the reasons for refusal in the previous application, comments on issues of scale raised in the previous Inspector's Report and response to that, and sets out in section 5.4 comparative CGIs of the previously refused scheme and the proposed scheme. While I note the planning history, I would also note that each application is assessed de novo on its own merits.

### Public Realm

11.6.3. I note observers consider the location and creation of higher buildings at this location will be incongruous, other higher buildings are closer to the city centre than this location and not as high as proposed here, with negative visual impacts on the surrounding properties, including those at South Park to the north of the N11.

Observers also raise concerns in relation to the impacts on character and public realm of Cornelscourt Village.

11.6.4. The proposed development comprises five no. apartment blocks and one row of houses. Blocks A, B and C are finger-like/rectangular blocks, orientated northeast to southwest, with their narrow ends orientated towards the N11. Block D is L shaped and is located to the southeast of the site, facing the rear of the cottages which front onto the Old Bray Road and also facing east toward Willow Grove. A row of houses is proposed between the boundary with Willow Grove and the east arm of Block D (Willow Grove comprises two storey semi-detached dwellings which back onto the site and the street gradually falls in level from south to north). Block E is located at the open frontage to Old Bray Road, adjoining the petrol station.

11.6.5. In terms of the height strategy proposed, the higher buildings are located to the northeast adjoining the N11, with the tallest building being Block A, with Blocks B and C reducing in height stepping down from Block A and each block also steps down towards the village side of the site. The height of the blocks is as follows:

- Block A – part 12, 6, and 5
- Block B – part 9, and 5 storeys
- Block C – 7 storey over lower ground level to the east and part 6 storey over podium
- Block D – L shape; 4 - 5 storey building over podium level, and 6 storey building over lower-ground level (eastern wing only)
- Block E – 4 storeys
- Row of Houses – 2 storeys

11.6.6. Blocks A, B and C are set 22-23m apart and have an angled form toward the N11, therefore they have a varied set back from the grassed verge adjoining the cycle lane along the N11 of c.7m at their closest corner points to 13-16m. Block E is set back predominantly c.3m from the Old Bray Road edge/main street of the village. Block D is predominantly 13-14m from the southern boundary to single storey cottages/some commercial units which front onto the Old Bray Road. Distance of proposed two storey houses to the boundary with Willow Grove is c.9-12-13m, and

distance of Block C to the existing two storey houses in Willow Grove at the northeastern end is c.33m.

- 11.6.7. The submitted documents from the applicant state in relation to the height strategy that 'Building A, B and C front directly onto the N11 corridor which provides an opportunity for increased density and height given its width and urban character. Building height ascends in multiples of 3, stepping up from the east towards the west creating a legible, distinctive urban edge onto the N11. Building A is part 5, part 6 storey, rising to 12 storeys adjacent to the N11. Building B is part 5 storey rising to 9 storeys proximate to the N11 edge. Building C is predominantly 6 storeys height over a partial lower-ground floor below podium level'.
- 11.6.8. In terms of public realm, the N11 at this point can be characterised as a wide dual carriageway, with segregated QBC and cyclepaths on either side and a centralised low hedge corridor in the middle. There are large areas of suburban housing on either side of the N11 which are not visible at this location. As the N11 travels northwest toward Dublin City, its character has changed notably in recent years, with development of higher buildings with frontages/ access points onto the N11 highlighting the urban/suburban character of lands on either side of it and providing an urban form, visibility and accessibility to the N11 as a public transport as well as vehicular route. The proposed development aims to alter the character of the N11 at this point similar to that to the northwest by establishing a more urban character, with buildings of height visible from and providing an urban form to the N11, with direct access for pedestrians/cyclist from the site to the public transport/active travel facilities along the N11. I refer the Board to the submitted aerial and CGIs which show the proposed development in the context of the N11 and from wider viewpoints. I consider that the proposed development, when viewed at a distance, would read as part of the wider urban landscape, and would not be unduly obtrusive or detract from the character of the wider area. I consider the proposed urban definition of the N11 at this point, which also marks the end/start of Cornelscourt Village, to be a positive intervention in terms of urban design when viewed from the N11 and the overall height can in my opinion be absorbed given the design and orientation of the blocks within significant negative impacts on the surrounding area, including South Park. The overall issue of height is discussed in more detail in section 11.7 hereunder, however, from the perspective of urban design and impact

on the N11, I consider the urban form, connectivity to the N11, and legibility that is provided to the N11 to be a positive addition. I note that the landscaping plan indicates a stone wall and railing boundary 2.1m high to the N11. While it would have been preferable to extend the footpath along the frontage of the site in the verge of the N11 adjoining the existing cyclepath and provide for an additional access point, I consider the path as proposed from the northwest corner to the junction with Old Bray Road to be acceptable given the presence of the bus stop in that area and movement will primarily be in that direction. I note there is no footpath adjoining the N11 back toward Cornelscourt shopping centre, no mention from the PA for a plan for one and the PA has not suggested extending the footpath along the verge to the front of the site in that direction. I consider the boundary treatment along here to be important in terms of establishing a transparent and attractive edge to the cycleway, which the low wall height with railings above will ensure. The proposed 2.1m stone wall and railing (c.1m wall with 1m railing above) along the majority of this boundary adjoining the verge/existing cycleway is in my opinion acceptable.

11.6.9. With regard to the Old Bray Road, this is the main spine street through Cornelscourt Village, which is an historic village of low scale with modern interventions in the area of the site, including the 3 storey AIB bank at the entrance from the N11 and the 2 storey neighbourhood centre and 3 storey office development on the other side of the street to the application site. The greatest potential for impact on the public realm arises at the local level at the village side of the site. From along the main street, the current vacant nature of the site presents as a gap in the urban form and in my opinion weakens the urban edge of the village at this point. In terms of the existing public realm, I note the main street overall has footpaths of varying width and quality with the footpath narrow in sections. A public realm intervention is visible in the centre of the village where a seated paved area with a sculpture and footpath build out provides for a more pedestrian focus/mini-plaza area to the street. This proposed development provides an opportunity to strengthen the urban form of the village, and allow for quality public paths and public spaces. Block E is positioned addressing the main street in the village, presenting as a four storey building to the street, with a side pedestrian access to the site between the petrol station and Block E and a new pedestrian crossing facility where the footpath crosses the entrance to the AIB/application site. While I consider the proposed insertion of Block E to the street

to be a positive intervention in that it presents an active edge to the street, I note the concerns of the PA raised in the CE Report in relation to the scale of the block and the remaining footpath width at this location (I refer the Board to CGI view VVM37) and observers concerns in relation to the character of the existing village. I agree that the building contributes little in terms of public space considering the scale of population (c. 632) which will likely utilise this footpath on a daily basis to access local services and amenities, in particular those facilities in the local neighbourhood centre and small Dunnes Stores on the opposite side of the street, with no crossing point/public realm improvements to the main street incorporated into the proposed works. I consider Block E further in Section 11.7.22 of this report hereunder.

11.6.10. It is clear that the proposed development has two frontages with differing functions and capacity for height – the frontage addressing the N11 presents an urban form and scale and height of development relative to the width of that road; and the other to the village main street. The scale of Block E is in my opinion overly dominant relative to the width of the street and height of other buildings at this location. I refer the Board to the submitted drawings and CGI view VVM37. In my opinion Block E should be omitted, with a revised design to be considered by way of a separate application which would allow for a tapering down of development to an appropriate level at the village side of the site with a building form and public realm suitable to the village context of this side of the site. I discuss the issue of Block E further in Section 11.7 of this report hereunder.

#### Open Space – Public, Communal and Supporting Communal and Recreational Amenities

11.6.11. Concerns are raised by observers in relation to the quantum and quality of open space provision given the projected population this scheme will generate.

11.6.12. The CE Report raises concern in relation to the quantum and quality of open space, stating it is below development plan quantum, there is a large amount of hard standing, there is a lack of a primary open space (a portion of block D Open Space is removed from calculations due to overshadowing, as per the applicant's submission), lack of public open space as per the applicant's definition, suboptimal use of podium level as open space, and lack of connectivity across the site with only one access from the N11, with a gate shown at the boundary to Willow Grove, which



is stated by the PA to be undesirable as access should be provided, notwithstanding the residents don't want connectivity. The Parks report further states the shape and quality of space is disappointing, linear and divisive, with excessive shade of open spaces from October to April, with the report concluding that overall it is a biased development led proposal. The Parks Report recommends removing all dwelling houses and omitting Block B, and proposes a range of standard conditions. The CE Report recommends the following refusal reason, but states if a condition is required, it is recommended that the southern portion of Block B be omitted and incorporated as open space:

Having regard to the proposed design, layout and quality open space provided, in particular the large amount of hard standing, the lack of a primary area of quality open space (noting a large portion of the area by Block D will be overshadowed), the lack of public open space, as well as the suboptimal use of raised podium level open space, it is considered that the proposed development would result in an unacceptable standard of residential amenity for the future occupants of the development. The proposed development would, therefore, be contrary to the public/communal open space requirements for residential development set out in Section 8.2.8.2 and 8.2.8.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

11.6.13. I note the quantum of communal open space provision was part of the reason for refusal for a similarly scaled development of 468 units at this site under SHD ref ABP-306225-19.

11.6.14. The applicant states 4703 sqm of open space is proposed, within which there is stated to be a 458 sqm equipped play area, 1669 sqm active recreational area, 2401 sqm passive space, and 175 sqm of an activity trail. It is stated that a conservative approach to the calculations is taken with elements of the hard and soft landscaping omitted (I note some of these spaces are connecting routes and a perimeter pathway is excluded) and it is stated those spaces which fell below the BRE guide for 2 hours of sunlight over 50% of an area have been excluded (I note this applies to the inner corner area of Block D). I note the previously refused

application for 468 units on this site is stated in the associated Inspector's Report to have proposed 2357sqm of open space.

11.6.15. Section 8.2.8.2 of the DLR County Development Plan 2016-2022 requires public / communal open space to be provided at a rate of 15sqm to 20sqm per person on the basis that 3.5 persons would occupy dwellings having three bedrooms or more and 1.5 persons would occupy dwellings have two bedrooms or less. A default minimum of 10% of the overall site area is required irrespective of the occupancy standards, where exceptionally high quality open space is provided on site and in such cases developments may be subject to financial contributions. In relation to financial contributions, section 8.2.8.2(iii) states where a new development is located in close proximity to (within 1km and/or 10 minute walking distance) of an established high specification public park, the Planning Authority may, in certain cases, relax standards and seek a financial contribution in lieu of providing the full quantum of open space.

11.6.16. In terms of DLR County Development Plan 2016-2022 requirements, the provision of 4703 sqm of open space is greater than 10% of the site area (10% equates to 2150 sqm and being the minimum amount of open space requires, noting the operative development plan does not make a distinction between public and communal open space). Based on population figures, the operative development plan requires between 9,480-12,640 sqm open space, therefore, while the applicant meets the requirement of 10% of the site area for open space, it does not meet the requirement in terms of population figures. The policy allows for a reduced level of open space, as long as the minimum 10% is met and provided exceptionally high-quality open space is proposed. The question for me therefore relates to whether the open space is considered exceptionally high quality and the application of a contribution in lieu of remaining open space would in that instance be warranted. I note that it is the opinion of the CE that the open space is not of a high standard and I have considered their comments in my assessment hereunder alongside an assessment of the layout and quality of the open space.

11.6.17. With regard layout and quality of open space, I note rectangular areas of open space are proposed with a northeast-southwest orientation between Blocks A and B (c.46m long x 16m wide, excluding boundary privacy areas alongside the buildings, a mix of hard and soft landscaping is proposed with a pavilion building at the north)

and between Blocks B and C (c.60m long x 16m wide, excluding boundary privacy areas alongside the buildings, mix of hard and soft landscaping). The latter area between Blocks B and C connects south to another area (c. 33m long x 42m wide), which is a semi-courtyard space formed by the L shape of Block D. This space links west to what is a set-down area adjoining the ends of Blocks A and B, off which is a ramp to the basement area. There is an additional area to the east of Block C (c. 38m long x 19m wide, with pump station and foul sewerage storage tank underneath) and an additional green area to the northeast of Block C (c12m long x 24m wide), west of the proposed large ESB substation to the northeast of the site. To the southeast there is an additional pocket of open space including a fitness area and activity play area (c. 15m long x 11m wide). There is a linear walkway around the perimeter of the apartment blocks around the site, with exercise equipment and activity play spaces along sections, however, it is not fully permeable with walls blocking off the northern area adjoining the N11, which I discuss further hereunder. The site area is largely car free with parking directed to the basement from the entrance to the southwest, which means all hard and soft landscaping can be used for amenity purposes. There is a mix of hard landscaped and green areas, with paths through them, benches provided for, and a variety of uses incorporated. I note the larger area to the northeast of the site while situated above a pumping station and storage tank is nonetheless usable and I consider it to be of value. I note some concerns from residents in relation to the location of play areas and I would agree that the area to the southeast in particular is quite peripheral to the scheme and proximate to neighbouring boundaries. It would be preferable that the play area be moved to the western end of this pocket open space closer to the proposed houses and Block D, away from neighbouring boundaries, and for improved passive surveillance reasons. Additional activity play equipment could be provided for in the centre of the scheme either in the area related to Block D or those areas between Blocks A/B or B/C. I note the landscape plan does include some active equipment in the image related to the space between Block B and C, though this is not clear on the site layout plan. The issue of play space location could be addressed by way of condition. Overall, I consider the layout of the open space and the design as set out in the Landscape Strategy, will result in the delivery of a high-quality and well-connected open space. While there are steps with no ramp from the central open

space associated with Block D to the eastern part of the site which is at a lower level, I note alternative east-west movement through the blocks via the basement is facilitated. I note a universal access statement has been submitted with the application.

11.6.18. While the CE Report in the stated reason for refusal raises concerns in relation to the podium level use of open space, I consider the podium levels appropriately designed and accessible, and I see no reason why they would be considered as substandard spaces and I do not consider their usability or safety is compromised as suggested. The design of such podium levels for open space is commonplace in apartment developments and generally works well. In relation to the lack of a 'primary' open space area as it relates to Block D, I consider the spaces as proposed in the scheme are of reasonable scale and the way in which they are connected to the open space at Block D and are accessible to all residents with varying degrees of active and passive use, results in an appropriately designed and scaled open space network. I consider the central open space at Block D is well designed and laid out and while there will be overshadowing of the inner corner of open space this does not in my opinion detract from the quality of the space, which is overall in compliance with BRE guidance in relation to sunlight in outdoor spaces (see also section 11.10 in relation to detailed sunlight assessment). The development will be further supported by its proximity to a GAA club and pitch within 250m of the site and the high quality Cabinteely Park (45ha in area) c.800m to the southeast of the site.

11.6.19. With regard to the suggestion from the PA regarding the omission of the southern half of Block B and the setting back of the remaining element of Block B from the N11 which would increase the area of open space, I consider, as mentioned above, the existing layout and quantum of open space to be acceptable and in compliance with the 10% requirement, with the design and layout in my opinion of exceptional quality, as set out in the submitted Landscape Design Statement. I note the Apartment Guidelines standards in terms of communal amenity areas have been met, notwithstanding that flexibility is allowed for due to the BTR categorisation of the scheme, and is supported by resident support facilities, which I consider further hereunder and I consider to be of appropriate scale to serve this development (this is discussed further hereunder).

11.6.20. With regard to the comment in the CE Report in relation to overshadowing of open spaces, in particular that adjoining Block D, I have reviewed the submitted Daylight and Sunlight Assessment. The BRE guidance in relation to proposed outdoor amenity areas recommends that for a garden or amenity appear to adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on March 21<sup>st</sup>. While the applicant has omitted the area of the open space that receives less than 2 hours from the open space calculations, this space will function as one area of open space and it must therefore in its entirety comply with BRE guidance. It is clear from the submitted assessment that the inner corner of the open space related to the L shape of Block D will be in shade for more than the recommended timeframe, and this is not unexpected in such a block configuration, however, it is equally clear that the area in shade is less than 50% of the open space as a whole, with the majority of the open space receiving more than 2 hours of sunshine on March 21<sup>st</sup>. The open space is therefore in compliance with BRE guidance for sunlight in proposed outdoor open spaces and I consider this will serve as a valuable amenity for future residents. I note the northwest-southeast block orientation of Blocks A to C supports light in between the blocks, and all the open space areas, including the linear space around the scheme, will receive more than 2 hours of sunshine on March 21<sup>st</sup>(see also Section 11.11 of this report).

11.6.21. I note in relation to the linear perimeter open space along the northern boundary of the site (not included in the open space calculations), that this area is not accessible to anyone, with a boundary fence proposed to the north at Block A and a 3m rubble wall is proposed to the north of Block C. The perimeter path proposed around the site is therefore blocked at these points. It is stated in the submitted documents that this area is terraced with native screen planting to enhance the visual amenity of the podium area and to screen carpark ventilation, when viewed from the N11. While I accept the design rationale, it would nonetheless in my opinion be appropriate to support a direct route to connect residents in the eastern side of the scheme to the N11 public transport corridor/cycle route and to facilitate a connected open space circuit around the site for the benefit of future residents, which can also be used by residents in the wider area. I therefore recommend that a condition be considered to omit the fences on either side of this

green area along the northern open space and develop an accessible pedestrian route east-west across this area, connecting to the entrance onto the N11 to the northeast. The proposed pedestrian gate at the access point with the N11 (stated to be controlled at night-time), with a corresponding gate at the southwestern end of Block A hinders further the permeability of the site. These gates do not support connections to public transport or support access to the adjoining cycle route after daylight hours and the provision of such gates is also contrary to social integration. A condition to omit these gates to ensure 24 hour accessibility and unimpeded public access is therefore recommended, should the Board be minded to grant permission.

11.6.22. With regard to the PA comment in relation to the desirability of a connection between the site and the cul-de-sac in Willow Grove to improve connections to the wider area from the site, I note the applicant has provided for a potential future access with a path up to the boundary. I note the level of objection in relation to this issue from residents of Willow Grove. I consider that such a connection while it may have a positive impact for residents of Willow Grove in allowing for a more direct link to the N11, it would not in my mind contribute greatly to permeability in the area or reduce significantly walk times, and while there would be no objection to such a provision should all parties want it, I do not consider this link to be of strategic significance to permeability in the wider area or required to improve permeability in the wider area.

11.6.23. The minimum required areas for public communal amenity space is set out in Appendix 1 of the Apartment Guidelines, however, I note SPPR 8, which relates to BTR schemes, includes flexibility in relation to communal amenity space stating under point (ii):

Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity

11.6.24. If the full quantum of communal open space were to be provided in accordance with the quantum's in Appendix A of the apartment guidelines, there would be a requirement for 2372sqm open space, which is met by this proposed development of 4703sqm. I note the DLR plan does not make a distinction between public and communal open space. I note the applicant considers the main open spaces between blocks are communal with the more peripheral spaces as public. I note all the spaces are publicly accessible. I have considered the quantum of communal open space proposed alongside the additional internal 'resident support facilities and resident services and amenities', which are required to be provided under SPPR7 of the Apartment Guidelines for BTR schemes. This internal area totals 779sqm and comprises a standalone multi-functional pavilion between Blocks A and B; tenant amenity spaces at the ground levels of Blocks A, B, D and E; and a residents gym located at the lower ground level of Block C. In terms of resident support facilities, concierge facilities are stated to be located in Building A including a management area, reception area, parcel storage area and staff welfare facilities. Maintenance and Management Stores have been provided at basement level. Tenant storage rooms have been provided at basement level which will provide additional storage for larger or bulky items for future residents. Refuse storage areas have been provided at basement level which will provide bins for general waste and recycling. I note the CE Report considers the development would benefit from additional tenant facilities such as laundry facilities, work/study spaces/communal rooms with dining and/or kitchen facilities, particularly given the number of one bed units. I consider that while the tenant amenity spaces are well located that a greater definition of uses to be accommodated within them would be beneficial, such as a laundry and work/study spaces. This issue could be addressed by way of condition should the Board be minded to grant permission. The proposed quantum and requirements of the Apartment Guidelines have been met, while having regard also to the allowance of SPPR8 for flexibility.

## 11.7. Height, Scale, Mass and Design

11.7.1. The height, scale, design, and massing of the proposed development is considered hereunder in terms of the quality of the proposed development, with potential impacts on residential amenities in terms of overlooking, loss of privacy, and overbearance considered separately in section 11.8 and 11.9 of this report.

- 11.7.2. A large numbers of submissions raise concerns regarding the height, scale and massing of the proposed development and consider that the proposal amounts to overdevelopment of the site, resulting in a significant negative visual impact, and is incongruous to the area. Observers consider that the proposal should not materially contravene the development plan in terms of height, and quoted precedence of higher buildings on the N11 relate to sites closer to the city and at lower height than 12 storeys. It is stated that the submitted CGIs do not show the site clearly from the local area, with trees in leaf in the way of the buildings in some views.
- 11.7.3. The CE Report considers the proposal is a material contravention of the development plan, which provides for a maximum height of six storeys for such areas, and the PA is not satisfied that additional height can be absorbed at this location without compromising residential amenity of neighbouring properties. In having regard to the Apartment Guidelines, the CE Reports states this is not a designated key urban centre but a secondary settlement area and it is considered the site has the visual capacity to accommodate up to six storeys, and although it is a larger site, it does not incorporate additional streets or public spaces and fails to respond to the existing context. The PA considers the justification provided by the applicant relating to the N11, the quality of materials proposed, and positive outcome of sunlight/daylight /microclimate assessments to be insufficient and the proposed height, scale and massing would not integrate in a cohesive manner with the immediate context. The PA considers the proposal does not meet criteria under S.3.2 of the Building Height Guidelines in that it does not respond to the natural and built environment; does not make a positive contribution to the urban neighbourhood or streetscape; and it would not make a positive contribution to the legibility of the area or integrate in a cohesive manner with the wider urban area. It is stated that while a refusal of permission is recommended that it may be possible to amend the scheme by way of condition to address these concerns. Suggested conditions include reduction of Blocks A, B and C to a maximum of six storeys, omission of southern portion of Block B with remaining area to be incorporated as open space, and Block E to be set back a minimum of 4.5m from the edge of the current footpath to deliver additional public realm. The following two refusal reasons are recommended in the CE Report:



The height of proposed Blocks A and B would be greater than six storeys permissible in a residual area as defined by the Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would result in an abrupt and significant departure from the prevailing building height in the area. The applicant has not demonstrated to the satisfaction of the planning authority that proposed building heights are appropriate at this location. The proposed development would therefore be contrary to the building height strategy for the county and would materially contravene the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Having regard to the height, scale and massing of the scheme, it is considered that the proposed development would appear visually obtrusive when viewed from the N11 and surrounding areas and would be visually overbearing when viewed from the residential properties at the northern end of Willow Grove. Furthermore, the proposed development would fail to integrate in a coherent manner with its surrounding context, through its massing, scale and lack of linkages with the surrounding area. The proposed development would therefore give rise to adverse impacts on the visual and residential amenity of the area, and as such would be contrary to the Objective A zoning of the site, to protect and/or improve residential amenity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

11.7.4. The applicant has submitted an Architectural Design Report, section 5.1 of which provides a design rationale as to the scale and massing and 'how the proposed development responds to the opportunity of the N11 corridor while also ensuring a sympathetic interface with the established scale of the Village'. Section 5.1 includes cross sections, both with adjoining properties and within the scheme. It is stated that the buildings heights have been informed by the Board's Direction on ABP-306225-19, which proposed similar building heights along the N11 at a higher density of 219 units per ha on the site, and stated 'the Board was satisfied that the elevations of proposed Block A and Block B would be acceptable in terms of appearance and scale and would in terms of massing represent an appropriate sense of enclosure to the N11 corridor and would not seriously injure the visual amenities of adjoining

properties or the visual amenities of the wider area'. It is stated that the 'proposed scheme retains the overall scale and form considered acceptable by the Board, and includes some design refinement and improvements to Building A and omits the pavilion buildings between the buildings, to address specific design issues raised in the Inspector's Report'. The applicant has submitted a Building Height Report which assesses the proposal against Section 3.2 of the Building Height Guidelines and considers the proposal acceptable. While I note concerns in relation to some CGIs and obscuring of images with trees in leaf, I am satisfied I have sufficient information before me to assess the visual impact of the development, including proposed drawings, site sections and submitted contiguous elevations from the east, north, south and west, as well as the submitted CGIs and aerial photos.

11.7.5. I have had regard also to all observer submissions, to the submitted Visual Impact Assessment (VIA), Photomontages and CGIs, and the Architectural Design Statement and Building Height Strategy, and I have visited the site and the surrounds. With regard to the planning history on the site, while I am cognisant of and have reviewed the planning history of this site, I would highlight that each application is assessed on its own merits. I refer the Board to the submitted Planning Report and Statement of Consistency which contains a comparison of both the previously refused application and this application.

11.7.6. The policy basis for my assessment of the height of the development is informed by both national and local planning policy. In terms of national policy, I have assessed the development against the 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines), which provides a detailed national planning policy approach to the assessment of building height in urban areas and states that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. I have considered these guidelines alongside other relevant national planning policy standards, including national policy in Project Ireland 2040 National Planning Framework, particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

11.7.7. In terms of local policy, I have had regard to the Dun Laoghaire Rathdown Development Plan 2016-2022, in particular Policy UD6 and Appendix 9: Height Strategy. Policy UD6 of the development plan states that 'it is council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County', this strategy being set out within Appendix 9. Section 3.3, comments in relation to the N11 public transport corridor, that owing to its width, strategic importance, and public transport facilities, it has the potential to become an attractive urban corridor enclosed by taller buildings of high quality, at locations which are also proximate to social and community infrastructure. Under Appendix 9, the site is identified as a 'residual' area, where building heights of 2 storeys generally apply and developments of 3-4 storeys can be considered on suitable sites such as corner sites, large redevelopment sites or on sites adjacent to key public transport nodes. A case may be made, in exceptional circumstances, for an additional one or two storeys subject to meeting upward and downward modifiers set out in the strategy (Section 4.8 of Appendix 9 refers).

11.7.8. In my opinion the site meets at least two of the upward modifiers as set out in Appendix 9 of the operative development plan and on this basis building heights of up to 6 storeys are permissible. Proposed Block A, Block B and Block C exceed the 6-storey building height limit, assuming application of upward modifiers and no downward modifiers. With regard to Blocks D and E, as these blocks are 4-5 and 4 storeys respectively, consideration of the modifiers in the operative development plan is required. In relation to the upward modifiers, Modifier A relates to the urban design benefits that might arise from a development. In relation to the proposal, it is situated adjoining the N11 and Old Bray Road, which is the main street through the village, and the development has urban design benefits in creating an urban form to both elevations on this infill site. Modifier F relates to the size of the site, being sufficient to set its own context and the subject site is sufficiently large to be considered under that criterion in my view. I am therefore satisfied that these upward modifiers under the plan apply in this instance. With respect to downward modifiers, I consider amenity impact in section 11.11 below and visual impact as part of my wider design considerations in subsequent paragraphs, which overall I consider acceptable.

11.7.9. Overall, I consider that the development materially contravenes the Building Height Strategy and related Policy UD6. The application includes a Material Contravention Statement in respect of building height, and this is referenced in the public notices. The Board can, therefore, consider invoking Section 37 (2) (b) of the Planning and Development Act in this instance where it is minded to grant permission. It is noted that SPPR3 provides that permission may be granted where the development management criteria in the guidelines are met, even where specific objectives of the relevant development plan or local area plan indicate otherwise. A case is made for extra height based on the site's proximity to high capacity public transport, established precedent for higher buildings along the N11 and the successful integration into the existing context. I refer the Board to Section 11.14 hereunder in relation to the issue of material contravention.

11.7.10. I have considered the SPPRs and Development Management Criteria under section 3.2 of the Building Height Guidelines in my assessment. The guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. Section 3.1 of the Building Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights (note my response is under each question):

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

My Opinion: Yes – as noted and explained throughout this report this is achieved by focussing development in an urban location with good public transport accessibility and supporting national strategic objectives to deliver compact growth in urban centres. The planning authority is also of the opinion that the site is suitable for a higher density of development.

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

My Opinion: No – in my opinion Appendix 9 does not take clear account of the requirements set out in the Guidelines and lacks flexibility to secure compact urban growth through a combination of both facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations.

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

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

11.7.11. Section 3.2 of the Building Height Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments. I am of the opinion that this has been adequately demonstrated in the documentation before me and the proposal has the potential to make a positive contribution to this area. This is discussed in detail hereunder and also in Sections 11.8 and 11.11 of this report.

### **Section 3.2 Criteria: At the scale of relevant city/town**

#### **Public Transport**

11.7.12. Observers raise concerns in relation to the capacity of the buses on the N11 route during peak times, with routes 145 and 155 in particular referenced, with it stated that pre pandemic, although the buses are frequent, they were generally full by the time they got to the bus stop nearest the site. The CE report notes that public transport within the surround is adequate to justify a higher density, notwithstanding which, the PA considers the density excessive and unjustified.

11.7.13. The first criteria under section 3.2 of the Building Height Guidelines relates to whether the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. I note the PA has not raised concerns in relation to the capacity of the bus services available.

11.7.14. Under the Apartment Guidelines, for intermediate locations, a frequency of 10-15minute for a Luas service at a walking distance of 1000-1500m is recommended, or a 10 minute bus frequency within a walking distance of 1000m, or where such services can be provided. The application site is within the specified walking distance of high frequency bus services. The closest bus stop on the N11 is served by the 145 service (Kilmacanoge to Heuston Station) with a 10-minute frequency during peak times and a journey time of c. 40-50 minutes to the city centre. There are therefore 6 buses available on the 145 bus route in one hour during the peak, with a potential capacity of 540 passengers. Route 155 has a lesser frequency of 20mins throughout the day and this route connects Bray to Ikea, serving UCD, TCD, TU Dublin and DCU. There are 3 no. 155 buses available in one hour during the peak, with a potential capacity of 270 passengers. The 46A route, with a high frequency service of 6-7 minutes serves a stop c. 730 metres northwest of the site opposite Foxrock Church, with approx. 8-10 buses on the route during a peak hour, which equates to a potential capacity of 720-900 passengers. Other local bus services (routes 84 from Blackrock to Newcastle in Wicklow / 63 from Dun Laoghaire to Kilternan / 75 Dun Laoghaire to Tallaght) can be accessed from bus stops on the N11, R827 and Old Bray Road and have lower frequencies. Connections to Dublin Airport (with stops along the route) are facilitated by Bus Eireann route 133 and AirCoach Route 702. Bus Connects proposes an E1 service along the N11 at this location with a frequency of every 10-15 minutes. There are segregated cycle lanes along both sides of the N11 corridor and adjoining the site. Counting only the more frequent services, there is a capacity potential on buses within 1000m of the site of 1,710 passengers during a peak hour, with this increased by lesser frequency bus routes, assuming one additional bus per hour per routes available, which would provide an additional 450 passenger places during a given peak hour, which would give an approx. capacity of 2160 passengers. I further note there are bus links to other modes of the Luas and DART, with the existing cycle and footpath network allowing for additional links and options of active modes to make

connections. While concerns exist in relation to existing public transport capacity, I note the wide range of options open to people in this area and I am satisfied that the service as it exists is high capacity and is high frequency. As with car traffic, peak hour congestion is to be expected in urban areas and I have no evidence before me to suggest that the peak congestion experienced in this area is such as would warrant a restriction of development on zoned residential land within the Dublin City and Suburbs area at a time of a housing crisis which national and local policy is seeking to address.

11.7.15. In relation to capacity, this varies depending on the vehicle type operating on a route, with a bus capable of accommodating c. 90 persons per bus (the Luas is capable of accommodating 319-480 passengers, depending on luas tram length). The capacity of a route varies at different times of the day, with capacity at most pressure during peak hour times, however, increased frequency can relieve such pressures and I note the guidelines state 'or where such services can be provided'. While I note observers concerns in relation to peak hour capacity, a high capacity and high frequency service is in existence, and given this site is already serviced by Dublin Bus, it is clear that it is possible to increase the services at this location with increased demand, and this is the NTA strategy across Dublin for bus based public transport, with capacity and frequency intrinsically linked. I consider the site is ideally located and well serviced with options to access existing high frequency high capacity public transport routes, with links between modes, as well as increased access and connections available through more active modes of walking/cycling, with a range of services, amenities, and high employment areas within walking and cycling distance. All road networks comprise a limited capacity in terms of accommodation of the private car and it is only through increasing the population at locations such as this which are well serviced by public transport and which have the capability of increasing services as demand requires, will sustainable communities be developed. The capacity of the bus service (as with rail) adapts to demand, which to a large extent reflects the prevailing state of the country's economy and as such can decrease as well as increase. This is monitored by the NTA and additional services and as such increased capacity is provided where demand exists. Overall, I am satisfied that the level of public transport currently available is of a scale that can support this future population, with alternative options of walking and cycling also of

value given the proximity of the site to services/amenities/education/employment zones. Additional planned services in this area by way of BusConnects, will be supported by providing for developments such as this which will support a critical mass of population at this accessible location within the Metropolitan area, in accordance with national policy for consolidated urban growth and higher densities.

Ability to integrate into/enhance the character and public realm of the area

11.7.16. Point two of the section 3.2 criteria (at the scale of the relevant city/town) relates to the scale of the development and its ability to integrate into/enhance the character and public realm of the area. A Landscape and Visual Impact Assessment has been submitted, as required, in addition to photomontages/CGIs, an Architectural Design Report, Building Height Strategy and associated architectural drawings. I note there are no protected views in the area of the site, there are no protected structures on the site or in the immediate surrounds and no features of archaeological interest on the site. The site is influenced by its context as an infill and backland site to the existing main street of Cabinteely, as well as by its frontage to the N11, and neighbouring low scale housing. I have had regard to the character of the existing area and considered whether the proposed development would make a positive contribution to the character and public realm of the immediate and wider area.

11.7.17. I would start by highlighting that this is a large serviceable site within an established urban setting, which in planning terms is currently underutilised. While I acknowledge that there is a significant increase in intensity of development comparative to the low rise and low density nature of the immediate surrounds, I consider that due to its locational context, site size (in excess of 0.5ha which is a DLR upward modified), and specific context of the N11 where higher blocks are proposed, that the site has the capacity to accommodate buildings of scale and support a variety of heights, which can integrate into/enhance the character and public realm of the area without undue detriment to the existing setting of the N11 which lacks urban form, or the setting of Cornelscourt Village, which the development tapers down toward. While observer submissions consider the entire development is overscaled relative to the village, I consider the strategy adopted by the applicant of a lower to higher height strategy as one moves across the site toward the N11 to be appropriate. While the development will be visible from both



the N11 and the main street, I do not consider this a negative and I consider the layout has had adequate regard to the amenity of immediately neighbouring residential properties to the east and to the north (I refer the Board to section 11.10 hereunder in relation to adjoining residential amenity). However, I have concerns in relation to elements of the scheme proximate to the village, which I discuss further in this report.

#### Contribution of the site to place-making

- 11.7.18. With regard to the contribution of the site to place-making and delivery of new streets and public spaces, I consider the proposal will have urban design benefits in that through the scale and positioning of Blocks A, B and C it will create a more urban edge to the N11, marking the entrance to Cornelscourt Village and creating a distinctive urban form at this location on the N11. I refer the Board to submitted CGIs VVM4 and VVM6. With regard to the impact of the development on the village side of the site, the development will fill in a gap site within the existing village streetscape, therefore creating an improved sense of place along the main street (however I do have concerns in relation to Block E which are discussed further hereunder at the scale of the street).
- 11.7.19. The internal layout proposes permeable pathways and open spaces across the site, connecting the village main street and the N11, allowing for direct pedestrian connection to public transport and cycle routes on the N11. I disagree with the CE Report that the proposal does not deliver new streets or public spaces. The development provides for a car free zone with pedestrian paths into and around the development, with the delivery of public open spaces within the scheme, which can be used and will be of benefit to the wider community. I consider the contribution of the buildings to the internal public realm through the creation of active spaces and internal streetscapes and overlooking of open spaces will overall result in a positive contribution to place making.
- 11.7.20. As noted previously in this report, a gated access point is proposed from the N11, which in my mind would be counter-productive in supporting pedestrian/bus users and cyclists and should be omitted by way of condition. I note the CE Report raises concerns that an open pedestrian access point is not proposed to connect into Willow Grove. The scheme has designed in for provision of a pedestrian access,

which would be to the benefit in my opinion of residents of Willow Grove, however, the open space is not taken in charge by the DLR Co. Co. and no permission has been given by the residents to allow for this connection, therefore, the optimum scenario in this instance is to design in a potential connection point, which could be usable in the future should all parties agree. As noted previously, I do not consider this pedestrian connection of strategic or significant importance in terms of permeability and connectivity of the site into the wider area given the limited area it serves and limited value in terms of improved walk times to public transport for residents of Willow Grove.

### Section 3.2 Criteria: At the Scale of District/Neighbourhood/Street

- 11.7.21. The bullet points under this section of the Building Height Guidelines relate to how the proposal responds to the overall natural and built environment and contribution to the urban neighbourhood and streetscape; whether the proposal is monolithic in form; whether the proposal enhances the urban design of public spaces in terms of enhancing a sense of scale and enclosure; issue of legibility through the site or wider urban area and integration with the wider area; contribution to building/dwelling typologies available in the neighbourhood.
- 11.7.22. An active edge is proposed to the village main street with proposed Block E, which is positive, as recognised in the LVIA which considers the impact from VVM37 to be significant and positive. I refer the Board to CGI aerial image title Proposed A1, Proposed A2, Proposed A4, VVM37 and VVM21 (I note only a section of the end elevation is in view due to image of a tree; I refer the Board also to comparative images from the previous scheme to VVM21 which is on pg 80 and 81 of the Architectural Design Statement). While I support a modern insertion into the existing streetscape and the creation of a more positive urban edge over what exists, Block E does not in my mind reflect in a satisfactory manner the context of the existing village in terms of the scale of the building and its design, relative to the scale of the existing street and buildings. While there are modern insertions proximate to the site, I consider a more refined and modern take on an infill building would be more appropriate at this location, with a greater breakdown of the building width, and consideration of building height and materials. As discussed in the previous section of this report, the level of public realm assigned to the front of Block E could in my opinion be further improved. I consider Block E should be omitted by condition

should the Board be minded to grant permission and this portion of the site should be subject to a separate application.

11.7.23. I have further considered the view of Block D from the public realm on the main street and relative to the single storey cottages from Old Bray Road. I refer the Board to the submitted drawing titled 'Contiguous Elevation South', and CGI aerial image title Proposed A1, and view VVM15 in the submitted CGIs report. The LVIA considers the view from here to be slight and negative, commenting that

'The proposed development will be visible beyond and over the roof line of the existing cottages, however its apparent scale is reduced by the screening effect of the foreground trees and further moderated by the location of the taller blocks further back towards the N11. This also assists in mitigating any tendency of the proposed development towards over-bearing. The variation in tone and colouring across the proposed building facades assists in reducing massing effects and the development sits quite comfortably behind the cottages, though the existing simple clean skyline which easily defines them has now been somewhat blurred.

The winter view reveals very much more of the full scale of the proposed development and the flatter light conditions offer less contrast in light and shade between the buildings and within each building, thereby relatively increasing the massing effect. The different blocks stepping down to the cottages are however still discernible so that the overall development does not appear to be over-bearing'.

11.7.24. I acknowledge the sensitivities of considering any new structure on a back land site behind the village main street and the delicate balance between protecting the character of the village and allowing appropriately scaled development on zoned land, which is a finite resource. While Block D and the higher set back blocks of A-C will be visible no matter what is inserted given the low profile of the existing cottages, I consider the removal of the set-back fourth floor of Block D would simplify the roof profile/stepped down approach and visual impact when viewed from the main street, and offer a more discernible stepping down of profiles from the N11 toward this side of the site. I have assessed the proposal against the existing village context and I am satisfied that subject to the refinement of Block D and omission of Block E (subject to

a future application on that portion of the site), the development responds appropriately to the existing built environment and the design and form of the proposed buildings will contribute to the urban neighbourhood and streetscape.

11.7.25. With regard to the N11, the proposed new blocks A, B and C are positioned as finger blocks with their short elevations to the N11, with varying heights and materials. I refer the Board to CGI refs Proposed A4, VVM4, VVM5, and VVM21 of the submitted photomontages. I consider the positioning of buildings of height at the edge of the N11 and tapering down into the site would be of great benefit in terms of legibility and contribution to the urban character and form along the N11, while respecting that of Cornelscourt Village. Overall, in terms of the design and elevational treatment of the proposed blocks, I consider that the overall variation in materials and finishes (buff brick, pale brick, textured brick, aluminium cladding, some plaster on block D with buff brick and bronze coloured balconies), together with the modulation in height, building lines, and the fenestration pattern proposed, will ensure that sufficient visual interest is created when viewed from the N11, as well as from within the scheme itself, and as viewed from surrounding properties, and the overall proposal will not be monolithic in form. I note the CE Report considers a maximum height of 6 storeys should apply to Blocks A, B and C, however, I do not consider the application of such a blanket height would maximise on the sites potential nor would it take advantage of the ability to create a stronger and more defined edge to the N11. I am generally satisfied (subject to removal of the upper floor of Block D and omission of Block E) with the design approach and the elevational treatment and the design/scale of the blocks proposed.

11.7.26. To conclude, while the proposal will alter the skyline in the immediate area of the site and in long distance views with the introduction of new heights and built form, as can be seen in the submitted CGIs, I do not consider this to be a negative, given the quality of the scheme put forward. While the proposal will be visible from adjoining residential areas, I am generally satisfied that the height, density, scale and massing of the proposal is appropriate and consider that appropriate transitions in scale have been put forward in the design having regard to the context of neighbouring residential dwellings and the context of Cornelscourt main street/Old Bray Road (see further section 11.10 of this report). The intensification of development on this infill site, while being a departure from what exists, is consistent

with new development generally being at an increased scale, more appropriate to the urban context and accessibility of the area, and will contribute to legibility in the immediate and wider area. A move away from traditional development formats in my opinion contributes to the architectural interest of an area as it evolves, with each contribution over time representative of differing architectural influences which are capable of sitting alongside each other, subject to well-considered layouts and designs. I consider the design and layout as proposed has achieved this balance of moving forward through consolidated higher densities, while respecting the existing character.

11.7.27. In terms of how the development responds to the overall natural environment, I have assessed the impact on the biodiversity value of the site and the landscaping strategy put forward by the applicant (see also section 11.9). I am satisfied the applicant has proposed a landscaping plan which will deliver a high quality and biodiverse open space network.

Section 3.2 Criteria: At the scale of site/building

11.7.28. As per the Building Height Guidelines, in relation to consideration at the scale of the site/building, I have considered in more detail elsewhere in this report the impact of height on residential amenity of neighbouring properties, including issues such as daylight, overshadowing, loss of light, views and privacy. I consider the form, massing and height of the proposed development has been well considered and issues in relation to sunlight/daylight/overshadowing have been adequately addressed (see Sections 11.10 and 11.11 hereunder).

Section 3.2 Criteria: Specific Assessments

11.7.29. A number of specific assessments have been undertaken and submitted with this application, specifically in relation to Wind and Microclimate Assessment, Sunlight-Daylight Assessment, noise impact, consideration of birds (noted that the site is not located within an area sensitive to birds or bats), and telecommunications considerations (proposal allows for retention of telecommunication channels). There are no sensitivities associated with the site in terms of built heritage and an EIAR and NIS have been submitted as part of the application documentation. I am satisfied that adequate information has been submitted to enable me to undertake an

assessment of the impact of the proposed development and consideration of these reports is explored further elsewhere in this report as appropriate.

### **Conclusion**

11.7.30. I am satisfied that the development is reflective of good contemporary architecture and provides a high-quality design approach and is accordance with section 3.2 of the Building Height Guidelines in that it adequately addresses the issues of proximity to high quality public transport; it will make a positive contribution to the skyline of the area and will improve legibility; it will contribute to the character and public realm of the area, to place-making, and to the urban streetscape (subject to the omission of Block E and upper set back floor of Block D); and will contribute to the mix of uses and unit type in the area. It is my opinion that the proposed development will contribute to the sustainable and compact growth of the area.

11.7.31. The Board may in such circumstances approve such development for higher buildings, even where specific objectives of the relevant development plan or local area plan may indicate otherwise, as per SPPR3. In this regard, while the height is greater than the height outlined in the height strategy, I consider the proposed development will provide for a strong well designed urban form at this highly accessible and serviced site, and the building height proposed is in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas.

### **11.8. Social Infrastructure**

11.8.1. I note a number observers raise concerns in relation to the capacity of existing community facilities in the area, including schools, to cater for the proposed additional population.

#### **Community Facilities - Childcare Analysis and School Analysis**

11.8.2. The Childcare Facilities Guidelines for Planning Authorities recommends a minimum provision of 20 childcare places per 75 no. dwellings. The submitted statement of consistency indicates that the proposed childcare facility will cater for 50-60 children, depending on age. I note that Section 4.7 of the 'Sustainable Urban Housing: Design Standards for New Apartments' states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the

scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area, with 1 bed or studio units generally not be considered to contribute to a requirement for any childcare provision.

- 11.8.3. The application of the rate of 20 spaces per 75 units stated in the Childcare Guidelines in respect of 118 no. units would result in a childcare requirement of 32 no. childcare spaces. I consider that the proposed childcare facility which can cater for 50-60 children is therefore of a scale to meet projected demand and is in accordance with national guidelines.
- 11.8.4. With regard to school places, the applicant has submitted a schools demand assessment which identifies existing and proposed schools in the wider area. I note there is no requirement for a school on this application site and it is within the remit of the Department of Education and Skills in conjunction with the Planning Authority to reserve school sites as required.
- 11.8.5. Chapter 5 of the EIAR (Human Health) contains maps of the facilities in the area, including figure 5.8 primary and post primary schools, creches, healthcare facilities, as well as retail services and amenities.
- 11.8.6. Having reviewed the site and area, I consider the level of services and amenities on offer is adequate to meet the needs of additional population at this location.

#### 11.9. **Biodiversity, Ecology and Landscaping**

- 11.9.1. An ecological impact assessment has been undertaken as part of Chapter 6 of the submitted EIAR. I refer the Board to section 13.8 of this report hereunder.
- 11.9.2. An Arboricultural Report has been submitted, with supporting drawings of Tree Constraints Plan, Tree Impacts Plan, and Tree Protection Plan. A Landscape Plan has also been submitted, with supporting Landscape Masterplan drawing.
- 11.9.3. The Arboricultural Report notes there is just one tree within the site, (No.0441), which is an early-mature Holly, and some isolated clumps of scrub around the site area consisting of Elder, Buddleia and Bramble developing due to the lapsed management. There are a number of trees located off site including along the north-western boundary of the site within the grounds of the AIB Bank, where there is one Sycamore (Tree No.1) and two Cedar trees (Nos. 2 & 3), stated to be of an early-

mature age class, establishing well with the two Cedars being of reasonable good quality with potential to add to the treescape of this area as they grow in size. Along the roadside grass verge outside the sites east boundary bordering with the N11 Dual carriageway, there is a line of 7No. Semi-mature Lime trees (Nos.4-13) that are establishing well with future potential to add to the tree cover of this area. Mitigation measures are required for construction of part of the boundary wall and railing along the N11 and in relation to the proposed pedestrian path to the west to ensure the protection of existing trees. Measures proposed are acceptable.

11.9.4. With regard to habitats and flora, the main vegetative cover is grassland, described as dry meadow and grassy verges. The site offers no potential for roosting bats as there are no mature or large trees or suitable buildings. The potential for foraging by bats is also low as there are no hedgerows or treelines on site. The site does not have any habitat suitable, i.e. ponds or large drains, for amphibian species (common frog *Rana temporaria* or smooth newt *Lissotriton vulgaris*). No bird species of conservation importance, and especially wetland bird species, would be expected within the site given the lack of suitable habitat. The site is unsuitable for mammal species. Given the low biodiversity value of the site, significant impacts to habitats are not anticipated. No breeding birds were observed on the site during the survey.

11.9.5. A stand of Japanese Knotweed *Fallopia japonica* occurs within the site boundary (Figure 9) and Butterfly bush *Buddleja davidii* also occurs. Japanese Knotweed is included on Schedule III of the European Communities (Birds and Natural Habitats) Regulations, 2011 (Statutory Instrument S.I. 477 of 2011), as amended. It is highly invasive and extremely difficult to eradicate. An Invasive Species Management Plan was not prepared as part of this application and I am unaware if a previous plan exists, noting that at the time of the 2021 survey, the areas were still cordoned off but there was no evidence of any of the three alien plants being present there or elsewhere on site. The mitigation measures in the EIAR includes a provision to carry out a further assessment for Japanese Knotweed prior to any ground works taking place on site. Given this is a high impact species listed on the third Schedule of regulation 49 & 50 in the European Communities (Birds and Natural Habitats) Regulations 2011, I consider a condition in relation to the submission of an updated Invasive Species Management Plan prior to any works commencing on site would be warranted to ensure a specialist examines the existing grounds and success or



otherwise of treatment undertaken to date and what treatment if any or management measures are required going forward.

11.9.6. I consider the landscaping measures as contained within the Landscape Strategy submitted with the application will improve the biodiversity of the site overall. I am generally satisfied in this regard.

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

11.10.1. I note a number of submissions raise concerns in relation to the proposal being for 'build to rent' and one bed units and the appropriateness of the proposal for this area, particularly for people looking to down size.

11.10.2. Chapter 5 of the Apartment Guidelines for Planning Authorities, 2020 defines 'build to rent' development as 'Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord'. It is recognised that this type of housing development has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. It is envisaged that such purpose-built development would comprise higher density urban apartment schemes, to enable the delivery of viable long-term residential accommodation for rental purposes, and in particular to provide housing solutions for those for whom home-ownership may not be a priority or needed in their particular circumstances. It is a further requirement of the Apartment Guidelines that any such build-to-rent development remains owned and operated by an institutional entity, and that this status will continue to apply for a minimum period of not less than 15 years. The Guidelines also specify that no individual residential units may be sold or rented separately, during that period. While submissions consider this area is an inappropriate location for Build to Rent, I would highlight the application site is located within the area identified as the Dublin Metropolitan Area in the RSES. Dublin City and Suburbs accounts for about half of the Region's population or a quarter of the national population, as well as being the largest economic contributor in the state. The site is located within a village in this area and is accessible to a range of services and amenities, the site is highly accessible by bus with connectivity to the Luas, and it adjoins a segregated cycle lane along the N11, overall being well connected to a large range of employers within a short commuting distance. I am

satisfied that a Built to Rent scheme is suitable and justifiable at this location. I have considered the concerns raised in the submissions received, however I am of the opinion that the proposal will provide a viable housing solution to households where home-ownership may not be a priority and in an area where the main housing provision is private family type two storey dwellings. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland and I am satisfied in this regard. Concerns raised in submissions in relation to the negative impact of Build to Rent developments on established communities is not substantiated and such a scheme will not necessarily attract a transient population. I note the applicant has submitted a BTR Management Plan and I have no reason to believe there will be significant issues with the long-term management of the development. I consider that the proposed Build to Rent accommodation overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as set out in various policy documents, including inter alia Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

#### Design Standards for New Apartments

- 11.10.3. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply. Schedules were submitted to demonstrate compliance with the standards. SPPR7 and SPPR8 relates to Build to Rent schemes and are applicable to this scheme which has been advertised in accordance with the legislation as a BTR scheme.
- 11.10.4. The apartments have been designed to comply with the floor areas as per SPPR3 and appendix 1, as demonstrated in the submitted Housing Quality Assessment. It is noted in the submitted Planning Report that a small number of apartments fall marginally short of the requirements of Appendix 1 in terms of internal storage (the shortfall generally being between 1.6sqm and 2sqm), however, in the eleven cases identified, all units will benefit from additional, assigned, storage at basement level well in excess of the shortfall.
- 11.10.5. SPPR4 relates to dual aspect ratios and states that in suburban or intermediate locations it is an objective that there shall generally be a minimum of

50% dual aspect apartments in a single scheme. The development achieves this, with a stated 51% dual aspect units and no single aspect north facing units. I note part of the reason for refusal for the previous application on this site related to the lack of dual aspect units and the manner in which some were purporting to achieve dual aspect status. In this application, the applicant has amended what is considered as dual aspect and applied a number of design criteria in this regard (see section 3.1.1 of the submitted Planning Report). While I would question the dual aspect nature of some apartments where the outlook from the secondary aspect is quite limited, I am satisfied that the minimum standard of 50% as per SPPR4 has been achieved and the proposed apartments will provide for high quality residential amenity in this regard.

- 11.10.6. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.
- 11.10.7. In accordance with SPPR8(v), the requirement for a maximum of 12 apartments per floor per core (required by SPPR6) shall not apply to BTR schemes. The maximum units accessed from a lift core is 14 no. units (Building B) and 13 no. units (Building A). Lift cores in Buildings C, D and E serve 11, 8 and 6 no. apartments per floor respectively.
- 11.10.8. In compliance with SPPR7(a) the proposed development has been advertised as a BTR scheme. A draft legal covenant is submitted as part of the application which confirms that, the proposed Build to Rent scheme will remain in the ownership of an appointed Build to Rent company, who will manage the operation of the scheme, for a minimum period of not less than 15 years. No individual residential units will be sold or rented separately by the company during that period and the applicant accepts that this will be controlled by a condition of planning.
- 11.10.9. In compliance with SPPR7(b), the application is accompanied by proposals for internal communal amenity space, categorised by the Apartment Guidelines as Resident Support Facilities, and Resident Services and Amenities. It is stated that this communal space has a gross floor area of 779sqm.
- 11.10.10. Under SPPR8 there is a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to

have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. The proposed BTR scheme provides 236 no. car parking spaces at basement level for the residential units, of which 10 are car club spaces. This results in a car parking ratio of c. 0.56 spaces per residential unit within the scheme. The documentation submitted with the application which considers this issue further includes a Traffic and Transport Assessment Report, Mobility Management Plan, and Parking Management Strategy. While the CE Report recommends one car parking space per unit, I consider the reduced provision of parking to be acceptable and in accordance with SPPR8. The implications of a reduced provision are assessed further under Section 11.12 hereunder.

11.10.11. A Building Lifecycle Report has been submitted, as required by the guidelines.

11.10.12. The proposed development overall would provide an acceptable standard of amenity for the occupants of the proposed apartments.

#### House Designs

11.10.13. One street of seven two storey houses is proposed, which back onto existing two storey houses in Willow Grove.

11.10.14. In relation to housing, best practice guidelines have been produced by the Department of the Environment, entitled 'Quality Housing for Sustainable Communities'. Table 5.1 of these guidelines sets out the target space provision for family dwellings. I am satisfied that the internal accommodation meets or exceeds the specifications of Table 5.1.

11.10.15. The rear gardens associated with dwellings vary in shape and area, providing a satisfactory amount of private amenity space in accordance with development plan standards and achieve adequate separation distances to existing dwellings. In relation to back to back distances of 22m between first floor windows of houses, I note the only first floor windows to these dwellings serve a hallway, therefore overlooking between habitable rooms will not occur. Parking for the dwellings is proposed at basement level.

#### Communal Open Space

11.10.16. The provision of public open space, including communal open space, is discussed in more detail in section 11.6 of this report. Communal amenity space required for the development as per the Apartment Guidelines (notwithstanding SPPR8 allows for flexibility) equates to 2372sqm. The scale of communal space is in excess of that required, being 4703sqm in area. I note that communal areas are not specifically cordoned off in the development separate from public areas, but by virtue of their design they will function as communal amenity areas, with some elements more public than others. I note the DLR development plan includes communal open space in its public open space definition. I note also the range and scale of indoor communal spaces provided for within the development. The quality and scale of communal support facilities and amenities is in my opinion acceptable and will complement the external communal areas, as well as having the benefit of a location in close proximity to a local GAA pitch and being 800m from Cabinteely Park. I therefore consider that a satisfactory standard of communal open space has been provided overall, in accordance with the requirements of the Apartment Guidelines 2020.

#### Separation Distances Between Blocks

11.10.17. The CE Report raises concerns in relation to separation distances, where it is stated that the taller blocks are c. 20m apart from each other with this narrowing between the apartment blocks and new houses. Concern is also raised in relation to positioning of balconies in the corner element of Block D with a distance of 7m from a balcony and adjacent apartment habitable rooms, resulting in potential loss of amenity from overlooking.

11.10.18. Section 8.2.3.3(iv) of the operative County Development Plan states 'All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the

layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable'

(my emphasis applied to underlined words).

- 11.10.19. I note there is no preclusion to separation distances below 22m in the development plan and the 'circa' figure is given as a guideline, subject to detailed assessment of the site and layout proposed. I am satisfied in respect of the development management standards that the plan allows for flexibility and that no material contravention issues arise (see section 11.14 for more detail in this regard).
- 11.10.20. I have reviewed the plans submitted and note the separation distances between Block A and Block B ranges from c.23.5m to 29m (excluding balconies which is acceptable given overlooking generally relates to the experience from within habitable rooms). The distance between Block B and Block C is c.23m. I note that Block A is slightly cranked in the centre and at a slight angle to Block B with all three blocks stepping down in height away from the N11. Block A stepping down from 12 to 6 to 5 storeys; Block B from 9 to 5 storeys; and Block C from 7 to 6 storeys. These separation distances are in my opinion acceptable.
- 11.10.21. I note a separation distance between the ends of Blocks C and D of 10.6-15.8m, where Block C is 6 storeys and Block D is 5 storeys. I note two apartments in Block D sit opposite one apartment in Block C, with the intervening space comprising landscaping with steps down to the lower level to the east. I note some of the windows are slightly staggered and the number of apartments affected is limited. I refer the Board to Appendix A of the Material Contravention Statement, which comprises a drawing showing separation distances between blocks. I consider the separation distances to be acceptable and will not result in significant impacts in terms of outlook, overbearance or overlooking within this setting, where a degree of visibility and limited overlooking is to be expected. With regard to the separation distances between Block A and E, this is at its closest point 16m, however the windows are angled and will not in my opinion result in significant overlooking.
- 11.10.22. The distance between Block D and the front of the proposed two storey dwellings range from c.16, to 17m to 19m. There is a wide pathway and linear active amenity spaces provided between the houses and the apartment block, with the intervening space acting as a 'street' and amenity area, supportive of

pedestrian/cyclist movement and ground level activity. Given the intervening use between Block D and the houses, and given the private amenity space is located to the rear of the houses, I do not consider impacts in terms of overlooking or loss of privacy in relation to the proposed dwellings arise.

11.10.23. With regard to the comment raised by the PA in relation to the corner balconies of the L shaped Block D, I note there is a distance of 8m between balconies at the internal corner section, with two balconies at an angle to each other. There is a distance of 7m between one balcony and a window to a dual aspect unit, but again these are at an angle to each other and will not result in direct overlooking between habitable rooms. This issue can easily be addressed through the application of privacy screens at the end of a balcony which is common practice in apartment schemes where issues of proximity may arise. This issue is not so significant in terms of overlooking as to warrant a significant redesign of the internal layout of the block or omission of apartments. The issue raised by the PA in relation to sunlight-daylight is addressed in detail separately hereunder, however, I note that the proposal is overall in compliance with BRE standards and the amenity space external to Block D, while partially overshadowed, does also meet the relevant BRE guidance.

#### Sunlight Daylight

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

urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

11.10.25. The applicant has submitted a Daylight and Sunlight Assessment Report, section 3 of which outlines the guidelines and standards used and the methodology applied. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the BRE Report "Site Layout Planning for Daylight and Sunlight"; and British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting. I note British Standard BS 8206-2:2008 has been updated, however, the updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.

11.10.26. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state that although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards therefore described in the guidelines are one of a number of matters to be considered in a balanced and holistic approach to assessment of the site context and building design.

11.10.27. I assess hereunder the impact on daylight in relation to the internal layout of the scheme and the units. I have assessed potential impacts on neighbouring properties separately and I refer the Board to section 11.11 of this report hereunder.

#### Daylight - Internal to the Proposed Buildings

11.10.28. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small



internal galley-type kitchen is inevitable, it should be directly linked to a well daylighted living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

11.10.29. The submitted report sets out the methodology in terms of the rooms selected for assessment. I consider the approach as set out to be robust and in accordance with best practice. For combined living/kitchen/dining (LKD) rooms a 2% ADF value is applied, 1.5% for living rooms and 1% for bedrooms. It is stated in the report that an additional assessment against a 1.5% ADF for combined LKDs has also been undertaken and the results in this regard are also set out.

11.10.30. With regard to Block A, two of the ground floor apartments on the eastern side of the building fall below the 2% ADF value for combined LKDs (but above 1.5%), with all meeting the ADF 1% for bedrooms. Three apartments on the first floor have ADFs relating to LKDs which fall below 2% (and above 1.5%). Those three apartments were checked above first floor also (no other apartments were checked, as given they are in compliance on the lower floors, they will be in compliance on the upper floors). From level 1 to level 4 the ADF of the three affected apartments on each floor improves at each upper level to below 2% and at the fifth floor (sixth level), the result is over 2% for those three apartments. In all, 17 apartments have LKDs with ADFs of between 1.5% and 2%, all other apartments have LKDs with ADFs over 2%.

11.10.31. With regard to Block B, all units on the ground level meet BRE guidance in relation to ADF values for LKDs and bedrooms. At first floor level 6 of the 13 apartments have LKDs with ADF values ranging from 1.7% to 1.9%. At second floor level, 3 of these 6 apartments have LKDs with ADF values ranging from 1.8%-1.9%. At third floor level there is one apartment with a LKD with an ADF value of 1.89%. At fourth floor level, all LKDs of the 13 apartments are in compliance with BRE guidance in relation to ADFs. Overall in Block B, 10 apartments fall below BRE guidance.

11.10.32. With regard to Block C, at ground floor level all apartments meet BRE guidance in relation to ADF values for bedrooms and LKDs. At first floor level, 2 apartments have LKDs with ADFs of 1.8% and 1.67%. At second floor level, there is

1 apartment with a LKD with an ADF value of 1.7%, which has a value at third floor level of 1.77%, at fourth floor level of 1.91% and at fifth floor level is in compliance at 3.1%. Overall, there are 5 apartments in Block C with LKDs with a value below 2%, but above 1.5%.

11.10.33. With regard to Block D, all apartments meet BRE guidance in relation to ADF values, and in Block E three apartments have LKDs with ADF values of between 1.5% and 2%.

11.10.34. The houses were all assessed and all rooms are in compliance with ADF values.

11.10.35. Of the 365 rooms assessed across the blocks, 330 were in compliance with BRE guidance, with 35 not meeting the guidance. An overall approximate compliance rate of 97% is indicated. The applicant states that if a 1.5% ADF target value was applied to the LKDs, there would be close a 100% compliance rate, with 4 rooms not meeting this standard.

11.10.36. The CE Report states that whilst the majority of units pass the BRE standards, there are spaces/units that do not, and a higher compliance rate could have been achieved with a less constrained layout. The corner apartments within Block D are stated not to be favourable and the PA considers that if Block D had been broken up into two smaller blocks the results may be more favourable.

11.10.37. As set out above, I have reviewed Block D and all apartments in that block meet BRE guidance in relation to ADF values. In relation to the other apartments in Blocks A, B, C and E, the overall number of apartments which do not meet the BRE ADF value for LKDs of 2% is limited and the degree by which they do not meet the value is in my opinion marginal and in all instances is above 1.5%. Page 105 of the submitted Daylight and Sunlight Assessment sets out the rationale for units falling below the threshold of 2% (typically 1 bed units, located in clusters close to the cores and at lower levels facing another similarly sized building; generally single aspect units; impacts of outboard balcony desing) and sets out the compensatory measures included in the design to limit impacts in units falling below 2%, namely increased area of floor-to-ceiling glazing across façade of these units; additional overall size of these units, with c.4sqm-6sqm additional space; off-centre location of balcony off

LKDs; layout of internal space to maximise daylight; and taller floor to floor units at ground and lower levels.

11.10.38. I have considered the daylight impacts against the wider benefits of developing the site and I have considered the rationale as set out by the applicant in relation to the design process and site specific arguments (I refer the Board to pgs 105-106 of submitted Daylight and Sunlight Assessment). I consider the design and layout of the development, the juxtaposition of the blocks, and the requirement to provide for overlooking and a positive urban edge to pedestrian routes and open spaces, and to limit impacts on neighbouring properties, will result in a scheme which overall will provide for a high level of residential amenity. The urban design solutions of the development as proposed, measured against the results of the application of the BRE guidance, are considered positive given the context and benefits of developing the site.

#### Sunlight in Proposed Outdoor Amenity Areas

11.10.39. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of a garden or amenity area should receive at least two hours of sunlight on 21st March, in order to appear adequately sunlit throughout the year.

11.10.40. The CE Report raises concern in relation to the open space adjacent to Block D and level of sunlight/overshadowing of this space.

11.10.41. Section 10 of the applicant's Daylight and Sunlight Assessment assesses sunlight within the proposed amenity spaces. Fig 6.2.6 on page 45 of the submitted report highlights the areas assessed. While concerns are raised by the PA in relation to the overshadowing of the open space adjacent to Block D, I note the area is in accordance with BRE recommendations in relation to sunlight, with 50% achieving two hours of sunlight on the 21<sup>st</sup> March. I note from figure 6.2.6 that this area labelled 'tenant amenity/community hub' extends beyond the immediate area of the block to a connecting route to the northeast, however, excluding this route from my assessment and having examined the overshadowing diagrams, this area would still meet BRE guidance and is in my opinion therefore acceptable. All other open spaces

within the scheme, namely the space between Block A and B; between Block B and C; to the east of Block C; adjacent Block D/south of Block C; southeast corner of the site; and the amenity route around the scheme; all meet BRE guidance in relation to sunlight in amenity areas.

#### Sunlight-Daylight Conclusion

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

#### Noise Assessment

11.10.43. Chapter 9 of the EIAR addresses noise and vibration (see Section 13.13 hereunder).

11.10.44. The CE Report raises concerns that the applicant is not clear in the Architectural Design Statement or in the EIA Report about what measures will be implemented to mitigate noise from the N11. The Architectural Design Statement says landscaping and winter gardens will tackle noise, however the PA is concerned that the EIA is less prescriptive and says measures are subject to change. The PA states it is not generally supportive of enclosed winter gardens, however it is acknowledged that the apartment guidelines allow for their use in certain circumstances.

11.10.45. An Inward Noise Impact assessment has been undertaken which focusses on the proximity of the site to the N11 National Road and impact of that noise on future residential amenity. The EIAR sets out mitigation measures related to the traffic noise from the N11 which address the glazing and ventilation paths of the building envelope, with those facades facing the N11 most affected. As part of the assessment, a model of the site was undertaken and all the facades of the proposed blocks are colour coded on the basis of the outcome of the model and sound insulation performance requirements for glazing and ventilation are set out in table

form (tables 9.14 and 9.15) to be applied to the different category facades. It is stated in the EIAR that 'The calculated glazing and ventilation specifications are preliminary and are intended to form the basis for noise mitigation at the detailed design stage. Consequently, these may be subject to change as the project progresses'. I note the Architectural Design Statement indicates consideration of the micro-climate has influenced the design of the blocks, with upper levels utilising winter gardens and glazed balconies.

11.10.46. I am satisfied that the potential noise impacts from the N11 can be adequately mitigated through design. Given the wording in the EIAR that states details are to be finalised as part of the detailed design, I consider a condition in relation to the final agreement of measures is warranted to ensure no ambiguity in relation to what measures are to be implemented and the desired outcome. Overall I consider the proposed blocks are adequately designed and would provide an acceptable level of amenity for future occupants, subject to condition in relation to this issue.

#### BTR and Unit Mix

11.10.47. The dwelling mix caters for a range of 1, 2, and 3 bed units, primarily in the form of apartments, with a limited number of three bed houses (seven in total). The proposed development comprises 70% 1 bed units, 27% 2 bed units and 3% 3 bed units. SPPR 8 of the Apartment Guidelines sets out that no restrictions on dwelling mix apply to BTR developments, and flexibility in terms of storage, private amenity space, and communal amenity space applies, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. In terms of mix, as there are no restrictions, the proposed mix is considered acceptable. I have further considered SPPR4, subsection 2 and 3, of the Building Height Guidelines which support a greater mix of building heights and typologies in planning for the future development of suburban locations and avoidance of mono-type building typologies.

11.10.48. DLRCDP policy RES7 seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County. I note that section 8.2.3.3 (iii) states 'Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise

of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.’ I note this section states ‘should generally comprise’ and does not state that larger schemes over 30 units ‘shall comprise’, therefore I consider that this allows for a degree of flexibility regarding the proposed housing mix and a material contravention therefore does not arise.

11.10.49. While concerns are raised in submissions that the scale of smaller units is unsupportive of family living, I note the wider area historically comprises a large number of family size two storey dwellings. The Apartment Guidelines (2020) state that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. As such, I consider that the proposed apartment accommodation will support a variation in typology for different sectors of society in this area, and is in line with the overarching national aims to increase housing stock, including in the apartment sector, as set out in various policy documents, including, but not limited to, Rebuilding Ireland – Action Plan for Housing and Homelessness (2016) and Housing for All – A New Housing Plan for Ireland (2021).

#### **11.11. Impact on Amenity of Neighbouring Properties**

11.11.1. I address hereunder issues of overlooking, loss of light, privacy, overbearance, visual amenity, health and safety concerns, and noise pollution as a result of the proposed development, all of which have been raised as significant concerns by observers.

11.11.2. The CE Report from DLR Co.Co. considers the positioning of development relative to Willow Grove and the bungalows fronting Old Bray Road, will result in a shortfall of separation distances, as per section 8.2.3.1 and 8.2.3.3 of the development plan and would result in some degree of overlooking of existing residents. One of the refusal reasons recommended in the CE Report is as follows:

Having regard to the height, scale and massing of the scheme, it is considered that the proposed development would appear visually obtrusive when viewed from the N11 and surrounding areas and would be visually overbearing when viewed from the residential properties at the northern end

of Willow Grove. Furthermore, the proposed development would fail to integrate in a coherent manner with its surrounding context, through its massing, scale and lack of linkages with the surrounding area. The proposed development would therefore give rise to adverse impacts on the visual and residential amenity of the area, and as such would be contrary to the Objective A zoning of the site, to protect and/or improve residential amenity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 11.11.3. In addressing the issues raised, I have examined the impacts of the development on the sunlight-daylight of neighbouring properties and the impact of the development in terms of separation distance, overlooking, overbearance and overall impact on residential amenity. From the outset I would note that in examining applications for multi-unit development, a balance is required in all assessments in relation to making the most efficient use of zoned and serviced land in the delivery of housing, where land is a finite resource, against the impacts of a proposal on existing residential amenities as well as the visual impact of the proposal (see also Section 11.7 above in relation to the visual impact).

#### Overlooking and Overbearance

- 11.11.4. I have examined the separation distances between the proposed blocks and the neighbouring properties which back onto the site at Willow Grove to the east and those along Old Bray Road to the southwest, the layout of the blocks, and the architectural design of the proposal in terms of modulation of height, layout and finishes. I refer the Board to Section 11.7 above where I examine the visual impact of the proposal.
- 11.11.5. With regard to Willow Grove, I note two sets of terraced two-storey dwellings are proposed backing onto Willow Grove, with an area of open space proposed to the north and south of the proposed dwellings, adjoining the boundaries to some of houses at the northern and southern ends of Willow Grove. I note under the open space to the north, to the rear boundary of existing dwellings, there is a foul pumping station and storage tank (see Section 11.13 of this report) over which there is public open space, and north of that adjoining the boundary to the existing open space in Willow Grove and c. 19m northwest of the nearest dwelling is a large single storey

ESB substation. I note the Architectural Design Report states the location of the substation within the site curtilage was chosen as a result of the existing services routes along the N11 and proposals have been made to screen the substation from Willow Grove. While observers raise serious concerns in relation to noise and health issues, I note the separation distances involved and design measures proposed and am satisfied the proposal can be supported at this location. I have no evidence before me to suggest that ESB substations negatively impact human health.

11.11.6. The distance between the proposed two storey houses to the existing rear boundary with Willow Grove is c. 9m for the northern section of terraced dwellings, with the southern section being 11.5-13.4m from the boundary. I note the applicant proposes a new 1.8m high block work wall with rendered finish to the inside of the existing boundary with Willow Grove. While back to back distances of 22m are generally recommended, as per the development plan, between first floor windows of dwellings, I note the design of the houses at first floor level comprises bathrooms and stairwells to the rear, with windows provided only to the stairwells. The one dwelling which has a bedroom to the rear at first floor level is served by side windows rather than rear windows. The proposed dwellings comprise an angled roof and have a rear height of 6m, rising to 7.9m to the front. While there is a level difference to the houses on Willow Grove with the land falling from south to north, the proposed dwellings are modest in scale and will not therefore be overbearing in form or result in significant overshadowing, and given their internal layout with no bedroom windows at first floor level to the rear, they will not result in significant overlooking of properties in Willow Grove.

11.11.7. With regard to apartment Block D, this is an overall distance of c.35m from the boundary with Willow Grove to the west of the proposed intervening two storey houses and varies from c. 42m to 44m to the rear elevations of dwellings in Willow Grove. While Block D will be visible at a height of five to six floors (which reads as seven floors when viewed on cross section drwg A-3005-P2, given differences in ground level with Willow Grove), there is a significant separation distance between the properties, with an intervening building form of two storey houses. I consider the scale of the apartment Block D will not be overbearing in its form given its design and given the distance to the boundary with Willow Grove and will not result in significant overlooking given the separation distances involved. In terms of its



visibility from the public realm of Willow Grove, I note submitted CGIs VVM34 and 35 in this regard and I consider the impact will not be overbearing or unacceptable from the public realm in Willow Grove.

11.11.8. I note concerns raised in submissions in relation to the scale of Block C (6-7 storeys) relative to Willow Grove and its visibility from the rear of dwellings at the northern end of Willow Grove. I note separation distances between Block C to the boundary with Willow Grove of c.33-35m. I consider such a separation distance adequate to ensure no significant overlooking, overbearance or overshadowing (as per the submitted daylight-sunlight assessment). I acknowledge that the block will be visible from the dwellings but I do not consider this a negative and I am of the view that the design, layout and separation distances will enable this block to sit comfortably within its surrounds. I refer the Board to the submitted CGIs. Concerns are also raised by observers in relation to potential impact on daylight to dwellings in Willow Grove from planting at the boundary of the proposed open space to the northeast. It is stated in the submitted Landscape Strategy that 'The strategy for the tree planting is to create a visual interest and important screening. The species have been chosen to create year round interest, with some evergreen trees located throughout the space'. I note that *Carpinus betulus* -Hornbeam 'Columnaris' (No.20) are proposed along the eastern boundary. It is stated that this is a slow-growing tree that remains narrow when young but later grows asymmetrical and broad. The crown is semi-closed and more irregular than the species, and the lower branches, which are often shorter, hang down slightly. The ultimate height is 4-8 metres and ultimate spread is 2.5-4 metres; time to ultimate height is stated as 20-50 years. I consider the proposed trees at the boundary will be an attractive feature, which will provide for a degree of screening and visual interest over time. These trees are not particularly dense in their coverage, and they are deciduous. I do not consider significant overshadowing will occur and the trees will be managed by the management company in charge of the scheme. Nonetheless, I consider a condition in relation to the detail of boundary planting can be attached and agreed with the Planning Authority to ensure no significant blocking of light for dwellings to the east.

11.11.9. I have reviewed distances between Block D and the single storey properties to the south, which back onto this site and front onto Old Bray Road/the main street through Cornelscourt. Block D is predominantly 13-15m from the southern boundary.

A number of the cottages have been extended to the rear quite close to the boundary and two appear to have two storey extensions close to the boundary (which given ground levels read as one storey from Old Bray Road), therefore overall distances between properties and the proposed Block D varies, but ranges between 17-21m. The proposed development will have an impact in terms of outlook from these properties given their single storey form (and extended two storey form of two properties), however, I note the ground level changes to the rear on the site which falls away from this boundary and I consider the design and layout of Block D at three storeys, with additional fourth floor set back which would not be visible from the rear of the cottages, has overall adequately responded to its context and I do not consider the proposal will be overbearing on the cottages by virtue of its height. While separation distances fall below 22m in certain instances, this is a product of the context of existing extended development to the rear of the cottages close to the boundary, and is overall limited to a small number of cottages and mitigated to a degree by the angle of the main street as one travels south. I note open space is proposed to the rear of the cottages to the southeast of the site, therefore there is no direct overlooking issues arising in this regard. I consider further hereunder in detail potential impacts in terms of sunlight-daylight and as the proposed development is north of the bungalow properties, loss of sunlight and daylight is not considered to be a significant impact and there will be no significant impacts in terms of overshadowing of gardens, with predicted impacts in accordance with BRE guidance. I have considered elsewhere in this report (see section 11.7) the impact of the set-back upper floor of Block D on the public realm when viewed from Old Bray Road given it will be more visible from that context, and I consider the upper floor should be omitted for reasons related to visual amenity.

11.11.10. I note observer concerns in relation to the impact of development on South Park to the north. The proposed development, in particular Blocks A, B and C, will be visible from this housing development which sits on the opposite site of the N11. However, given the orientation and layout of the blocks, the modulation in height and the intervening road infrastructure, I do not consider the scale and massing will detract from the area or be monolithic in form and I have considered further hereunder sunlight-daylight impacts, which are in accordance with BRE guidance (see hereunder for further detail).

11.11.11. A balance is required between promoting a sustainable urban density and scale of development on such a strategic site within the centre of a village and within walking distance of a QBC, as well as local services and amenities, and protecting existing residential amenities. I am satisfied overall that, while the proposed development will alter the outlook from existing neighbouring dwellings, the proposal will not in my opinion result in significant negative impacts in terms of overlooking, loss of privacy or overbearance for the reasons stated above in relation to modulation height and design of the blocks, separation distance and material finishes. I have considered in detail issues of sunlight, daylight, and overshadowing in a separate section hereunder and I am satisfied the proposal will not have a significant negative impact on existing residential amenity in this regard.

Daylight – Vertical Sky Component (VSC)

11.11.12. In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms.

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

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

11.11.14. The above noted tests/checklist are outlined in Figure 20 of the BRE Guidelines, and it should be noted that they are to be used as a general guide. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the

potential impacts for existing residents. It is noted that there is likely to be instances where judgement and balance of considerations apply.

11.11.15. The neighbouring properties that were assessed in the submitted Daylight and Sunlight Report with regard to VSC are 1-14 Cornelscourt Cottages; 8-16 Willow Grove Cottages; Trees, Gerfi and Edenmore; 46, 48, 48A, 50, and 52 South Park and 74 and 76 South Park (opposite side of N11); Old Bray Road; Magic Carpet (now a dunnes stores), Teachers Residence / Saint Jude, 328 Bray Road and Bridgemount.

11.11.16. A total of 209 windows were assessed across neighbouring properties. Of this, 200 were found to have a rating of 'imperceptible (96%) and 9 were rated as not significant (4%).

11.11.17. The results for no. 1-14 Cornelscourt Cottages (located to the south/southwest of the site) are set out on pg 20-21 of the submitted Daylight and Sunlight Assessment Results. With the exception of 3 of the windows assessed (one of the four windows in house no. 2; one of the four windows assessed in no. 5; and the one rear window in no. 10); all other windows had a baseline VSC value above 27%. For no. 1-6, the recommended VSC value of 27% falls below 0.8 the former value in 5 windows (two windows in no.2; two windows in no. 5; and one window in no. 6). For each window the compliance rate is at 95-95%, which falls marginally below the standard and is given a rating of not significant. Houses no. 7-14 are all compliance.

11.11.18. Dwellings Edenmore, Gerfi and Tree are located to the southwest, adjoining the end of Cornelscourt Cottages, at the junction with Willow Grove. The ratio of proposed VSC to Baseline VSC is great than 0.8 in each instance and is BRE compliant.

11.11.19. The result of the assessment of 8-19 Willow Grove are set out on pages 23-25 of the submitted Daylight and Sunlight Assessment. In relation to no. 8-12 one window to rear of no. 8, one window to rear of no. 9 and one window to rear of no. 10 falls marginally below the recommended guidance. One window to the rear of no. 9 has a VSC ratio of 0.79 (instead of 0.8) and proposed VSC of 26.85%; one window in no. 9 has VSC ratio fo 0.8 and proposed VSC of 20.99% (baseline being 26.32%); and one window in no. 10 has VSC ratio of 0.79 and VSC of 23.53%. I note in each

instance the level of compliance is 99.44%/99.68%/98.97% and is given a rating of not significant, with all other windows rated as imperceptible and BRE compliance. All rear windows in nos. 13-19 are BRE compliant, with exception of one window in no. 14 which is 99.8% compliance. I consider the level of non-compliance is marginal in each instance and affects only one window in each house.

- 11.11.20. The front and rear the windows on properties 46, 48, 48A, 50, 5274 and 76 South Park, on the opposite side of the N11 were assessed and all are indicated to be BRE compliant.
- 11.11.21. The windows on the upper floor of the commercial/neighbourhood centre building on the opposite side of the main street/Old Bray Road were assessed (opposite proposed Block E). All windows are deemed to be BRE compliant with the development in place, all having a proposed VSC value of above 30% and ratio of proposed VSC to baseline VSC of 0.77-0.79.
- 11.11.22. The front windows to the other building on main street/Old Bray Road of Magic Carpet, Teacher's Residence and Saint Judes were assessed. I note the Magic Carpet pub is now a small Dunnes Stores unit, which opened late 2021. All windows assessed are indicated to be BRE compliant. As are the properties of 328 Bray Road and Bridgemount.
- 11.11.23. Overall, in assessing the daylight to existing buildings with the development in place, the proposal largely meets BRE guidance, falling marginally below the standard in a small number of windows.

#### Sunlight Access Impacts

- 11.11.24. Annual Probable Sunlight Hours (APSH) is a measure of sunlight that a given window may expect to receive over the period of a year. The percentage of APSH that windows existing properties receive might be affected by a proposed development. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed.
- 11.11.25. The following properties are assessed in terms of APSH: 46, 48, 48A, 50, and 52 South Park and Old Bray Road. A total of 44 windows were assessed across the properties analysed. The overall effect to APSH Annual Study is stated to be 100%.

The effect to APSH Winter Study is also 100%. The impact is therefore in compliance with the BRE guidance.

#### Sunlight on Amenity Space of Neighbouring Properties and Overshadowing

- 11.11.26. The submitted Daylight and Sunlight Assessment assesses the impact of the proposed development on sunlight to existing amenity spaces and gardens of adjacent properties. The following gardens have been assessed: 1-14 Cornelscourt Cottages; 8-16 Willow Grove; Trees, Gerfi and Edenmore; 46, 48, 48A, 50, and 52 South Park; and 74 and 76 South Park.
- 11.11.27. The BRE guidelines recommend that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March, or not less than 0.8 of its current situation, in order to appear adequately sunlit throughout the years. As for all tests, balance may be required to be applied. Of the 30 gardens assessed, all are stated to meet the guidelines with the development in place.
- 11.11.28. With regard to Cornelscourt Gardens, there are located southwest of the proposed development. The results (pg 41 of the submitted assessment) indicate no perceptible impact on the gardens in relation of sunlight, with all BRE compliant. With regard to the rear gardens along Willow Grove (to the east), the results (pg 42) indicate marginal differences between the existing and proposed % area receiving sunlight, with the results indicating BRE compliance for all properties, ie at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March, or not less than 0.8 of its current situation. Properties at 1-3 Edenmore, and at 50, 76, and 78 South Park were also assessed and are BRE compliant.
- 11.11.29. Based on the assessment submitted and having regard to the referenced guidance, I am satisfied that the proposed amenity areas will meet and exceed sunlight standards recommended under BRE guidance.

#### Sunlight-Daylight Conclusion

- 11.11.30. I have used the Guidance documents referred to in the Ministerial Guidelines to assist in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and increase densities within zoned, serviced and accessible sites, as well as

ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical. I am satisfied that the development proposed meets the guidance set out in the guidance documents and the development will not have a significant adverse effect on residential amenity of neighbouring properties.

#### Traffic and Construction Impacts

11.11.31. Concerns raised in submissions in relation to the impact of traffic, noise and dust during construction on existing residential amenities is discussed hereunder in Section 11.12 hereunder.

#### **11.12. Traffic, Transportation and Access**

11.12.1. I refer the Board to Chapter 13 of the submitted EIAR and Section 13.14 of my assessment hereunder. A Traffic and Transport Assessment, Mobility Management Plan, Parking Management Strategy, a Preliminary Design Stage Quality Audit, DMURS Design Statement and Preliminary Construction Environmental Management Plan have been submitted with the application.

11.12.2. Many of the observer submissions received raise concerns regarding inadequate car parking provision, impacts of overspill parking onto adjoining roads, capacity of existing street network and level of existing traffic congestion, and concerns regarding capacity of public transport.

11.12.3. The CE Report considers 1 car parking space should be provided per apartment unit and 2 spaces per 3 bedroom house. Issues are raised in the Transportation Report in Appendix B in relation to issues raised in the Quality Audit Report, which are agreed to by the applicant but not incorporated into the design presented. Issues raised relate to the basement car park and usability of all spaces including disabled car parking spaces which shows a conflict with proposed basement foundations, inadequate cycle parking detail and widths, lack of dedicated provisions for the creche, inadequate width of pedestrian/cycle link on N11, inadequate width/clarity in relation to pedestrian and cyclist link from Old Bray Road, and lack of pedestrian crossings from the site to the opposite side of Old Bray Road. The Transportation Report states that if permission is contemplated that further quality audits for detailed design and post construction stages would be required.

## Access

- 11.12.4. Vehicular access to the site is via an existing entrance off the Old Bray Road, which will be shared with AIB. The existing entrance is to be altered in order to provide a more formalised access and provide for improved and safer crossing of the access junction for pedestrians along the Old Bray Road. A back-to-back right turn pocket will serve vehicles entering the development from the shared access with AIB Bank. The entrance to the site serves the basement car park and a surface podium set-down area.
- 11.12.5. The Quality Audit raises minor issues with the design of pedestrian facilities at the entrance from Old Bray Road and the car parking spaces shown to the north of proposed Block E, as well as access to the basement and layout of the basement. While it would have been preferable that solutions to issues raised in the quality audit were factored into the design as an iterative process pre the submission of the application, I consider all the issues raised could be addressed by way of condition. An issue raised in relation to the substandard width of the cycle/pedestrian route on the N11 grass verge, owned by DLR Co. Co., could also be adequately addressed by way of condition. I note in relation to this point that the letter of consent from DLR states that while the N11 is maintained by DLR that it is part of the national road network and TII are the funding authority for the maintenance of national roads, therefore consent should also be obtained from the TII for the proposed works. Given the provision of the cycle path and pedestrian path connection from the site to the N11 is in my mind a critical link, a condition should be required as part of any grant of permission that this element of works be delivered at the outset of development, to ensure no ambiguity or delay in its delivery. I note the TII in their submission on this application raises no issue with regard to the proposed provision of this cycle/pedestrian link. In relation to the provision of pedestrian crossing points on the Old Bray Road, I see no reason why the PA would not be supportive of such a provision subject to agreement of the design and payment for the works by the applicant, however as I have raised concerns elsewhere in relation to Block E, this would perhaps be better addressed as part of a separate application relating to Block E (see Section 11.7.21 of this report above).

## Traffic and Transport Assessment



- 11.12.6. The Traffic and Transport Assessment undertaken is based on TII's 'Traffic and Transportation Assessment Guidelines (2014).
- 11.12.7. The submitted TTA sets out the baseline environment including the existing road network, public transport routes (bus and connections to Luas and DART) and pedestrian/cycle facilities. Planned improvements to the cycle network and bus network via BusConnects are also outlined (it is stated as these schemes are not yet approved, they have not been taken into account in the TTA analysis of the opening year of the development). Baseline traffic data was gathered and junction surveys were carried out. Traffic modelling was undertaken utilising the TRICS database. A number of assumptions have been made in relation to future traffic and modal split, car ownership and use based on census data and consideration of similar scaled development, and associated surveys of car parking demand. I consider the assumptions made are robust.
- 11.12.8. Four junction traffic counts were undertaken at the following locations:
- Junction 1 - Priority Control – R842 Old Bray Road / Old Bray Road (Cul-de-sac) at the N11;
  - Junction 2 - Priority Control – R842 Old Bray Road / Mart Lane;
  - Junction 3 - Priority Control – R842 Old Bray Road / Site Access;
  - Junction 4 – Signalised Junction – R842 Old Bray Road / Cornelscourt Hill Road.
- I note the traffic counts were undertaken in January 2019, which was pre covid 19 and its associated effects on traffic.
- 11.12.9. The TTA adopts an Opening Design Year of 2023, Interim Year of 2028 (+5 years) and Future Horizon Year of 2038 (+15 years) as per TII guidelines and growth rates applied area based on Transport Infrastructure Ireland (TII) 'Travel Demand Projections'. Junction 1, Junction 2 and Junction 3 are at or exceed the 10% threshold for junction impact with the development in place and therefore these junctions required further analysis, as set out in chapter 6 of the TTA. Under chapter 6, it is stated that the operational assessment of the local road network has been undertaken using the Transport Research Laboratory (TRL) computer package PICADY for the priority junctions, with the same opening year, interim year and future horizon year applied. The analysis indicates that the proposed development

will not cause excessive delays or queueing nor will junction capacity issues arise as a result of this proposed development. Analysis shows that all junctions operate within capacity for the Horizon Design Year of 2038 within the local traffic network.

11.12.10. The concerns raised by observers regarding traffic congestion are noted, particularly around peak hours. While I accept that the proposal will give rise to additional traffic movements, I consider that the impacts of such would not be so great as to warrant a refusal of permission, as demonstrated in the submitted TTA. I note the CE Report and associated Transportation Report do not raise any issues in relation to existing traffic generation or flows in the wider area. I have no evidence before me to suggest the existing street network is at or nearing capacity. I consider that the development will have a limited impact on the established traffic conditions at this suburban location, given the level of car parking proposed and give its proximity to public transport services.

11.12.11. Having reviewed all submissions and the documentation received, I am satisfied that the surrounding street network can cater for the predicted traffic generation arising from this development. I am satisfied that the location and design/layout of the scheme will support modal shift to active modes and to public transport services in the area.

#### Public Transport and Active Modes

11.12.12. Observers raises concerns in relation to the capacity and frequency of public transport; lack of assessment of capacity of buses on the N11; and the balance between density of development, car parking provision and public transport capacity is considered wholly incorrect and imbalanced.

11.12.13. I refer the Board to section 11.7 above, where the issue of public transport capacity and frequency is addressed in detail.

11.12.14. The site is within the local village and within walking distance of its associated services, including a neighbourhood centre and small Dunnes Stores immediately opposite the site on the Old Bray Road. The site is c. 250m from a GAA pitch, c. 800m from Cabinteely Park, and within a short commute of significant employment locations of Sandyford Business District (2.7km/35 min walk/11 min cycle) and a relatively short commute via the adjoining QBC to UCD and Dublin City Centre, and in the opposite direction to Dun Laoghaire and Bray. Buses serving the site on the

N11 include the 46a, 155, 145, and 84. Go Ahead Bus operations bus no. 63 (to Dun Laoghaire and Carrickmines and Kiltiernan) and bus no. 75 (to Dun Laoghaire, Dundrum, and Tallaght). The subject site is also served by two NiteLink routes - the 46N route links D'Olier St. to Greystones and the 84N route connects D'Olier St. to Dundrum. Links to Dublin Airport are facilitated by the Bus Éireann route 133 and Aircoach bus 702 (hourly routes). The proximity of the site to the Luas is noted, with the Carrickmines Luas stop c. 1.8km from the site. While just outside the distance of 1.5km stated in the Apartment Guidelines, I consider the proximity to the Luas will also serve the site well with a connection to this separate mode served by bus from Cornelscourt village, with connectivity between public transport modes supported by the Apartment Guidelines.

- 11.12.15. There is a segregated cycle path along northern boundary of the site, along the N11 to Dublin City Centre. There are cycle facilities provided for on site, with a direct access at the northwestern boundary to the existing segregated cycle lane along the N11. There is also provision for a proposed pedestrian footpath alongside the existing cycle lane on the N11 to support quicker access from the site to bus routes along this QBC.
- 11.12.16. As part of the Bus Connects programme the N11 will become a Spine Route with buses there having a frequency of 8-10mins and there are also planned improvements for the wider cycle network.
- 11.12.17. This is an urban area, where growth is to be expected in accordance with national and local estimates and it is the management of this growth into the future through a shift to sustainable transport modes which will support the sustainable development of zoned and serviced land and not the provision of additional cars on a finite road infrastructure. This is the policy approach supported by government and by the Dun Laoghaire Rathdown County Development Plan 2016-2022. Policy ST3 of the operative CDP deals with the matter of modal shift and states that 'It is Council policy that...effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy'. I am satisfied that the location and layout of the scheme will support modal shift to public transport and active modes.

11.12.18. While concerns exist in relation to existing public transport capacity, I note the wide range of options open to people in this area and I am satisfied that the service as it exists is high capacity and is high frequency, with connections available between modes – I refer the Board to Section 11.7 of this report which addresses in detail public transport capacity and frequency. As with car traffic, peak hour congestion is to be expected in urban areas and I have no evidence before me to suggest that the peak congestion experienced in this area is such as would warrant a restriction of development on zoned residential land within the Metropolitan Area at a time of a housing crisis which national and local policy is seeking to address through densification of appropriate infill sites. The site is in my opinion appropriately located in terms of access to services, amenities, employment and public transport.

#### Car Parking and Cycle Parking

11.12.19. 247 car parking spaces are provided for, which equates to a ratio of c. 0.57 car parking spaces to every residential unit. 10 of the spaces are car sharing club spaces and it is stated that the provision of these car share spaces could meet the mobility needs of 20%-25% of residents, based on research in this area in the UK (the following document is referenced: A Good Practice Guide for Planners and Developers - Achieving low car housing: the role of car share clubs, 2016). It is proposed to provide for 819 bicycle spaces (664 at basement level and 155 at ground level), of which 10 spaces are for a shared bike scheme. The bicycle parking provisions are in excess of the requirements of the Apartment Guidelines and are therefore acceptable.

11.12.20. I note a number of submissions raise concerns in relation to the level of parking proposed, which is considered unrealistic and will result in overspill of adjoining streets. Concerns are also raised in relation to the capacity of public transport combined with the lack of car parking.

11.12.21. The CE Report consider one parking space per apartment unit and 2 spaces per three bed dwelling is required. One of the recommended reasons for refusal in the CE Report relates to parking and is as follows: 'Having regard to the intermediate urban location of the site, it is considered that the proposed development would be reason of the inadequate number of car parking spaces proposed and appropriate allocation, be contrary to the car parking standards for residential uses set out in

Section 8.2.3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and would result in car parking overspill onto surrounding roads. The proposed development would therefore seriously injure the amenities of properties in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area’.

11.12.22. In terms of national policy, I note that both the NPF and Apartment Guidelines emphasise a need to move away from universal parking standards to a more tailored performance-based approach. In this regard, I note National Policy Objective 13 which states ‘...building height and car parking will be based on performance criteria...’ and National Policy Objective 27 which seeks ‘...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’. Under SPPR 8 of the Apartment Guidelines 2020, it is stated that

‘There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.

11.12.23. Section 8.2.4.5 of the DLR County Development Plan also supports reduced parking in certain circumstances, dependant on:

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

11.12.24. It is clear that current national and local planning policy recognises the finite capacity of any street network and the requirement for a move away from car-based transport to more active modes of walking and cycling and a focus on public transport is important. Having regard to the points above, I consider the site is at an appropriate location to seek reduced parking provision and would be in compliance with SPPR8 of the Apartment Guidelines. The context of the development in relation to its locational advantages adjoining a high frequency quality bus corridor route, which will be subject to BusConnects upgrades, in addition the level of cycle infrastructure immediately adjoining the site, and accessibility by bus to other modes of the Luas and DART, are all key factors which support a low level of parking at a high density location such as this. The proposal provides for a largely car-free environment, which supports a safe and high-quality environment for residents. A direct pedestrian and cyclist link to the N11 will provide a direct pedestrian/cyclist connection to public transport and cycling infrastructure.

11.12.25. The applicant has submitted a Mobility Management Plan and Car Parking Strategy. It is stated in the submitted Mobility Management Plan that a Mobility Manager will be appointed, which will ultimately come under the remit of the Management Company. The Mobility Manager will have a role in promoting and monitoring the provisions of travel plans within the residential development with the objective of developing a sustainable transportation and access policy for residents of the proposed development. A Car Parking Management Plan has also been submitted and it is stated that all marketing material will make it clear that the development operates a 'car lite' approach to parking and that the ownership or signing of a rental agreement for a Build-to-Rent residential apartment will not include access to a designated on-site parking space. Residents will have the opportunity to apply to the on-site management company for both a (i) Residents car parking permit (updated weekly, fortnightly, monthly, quarterly or annually) and subsequently access to a dedicated (assigned) on-site basement or surface level car parking space or (ii) A visitor's car parking permit for a short period of time. The car parking regime is proposed to be implemented by the management company. While I acknowledge that there is a need for car storage, I consider the measures proposed within the Mobility Management Plan and Car Parking Strategy will manage the best use of onsite spaces and I further note that people buying into this

development will be aware of its public transport accessibility and the limited parking policy, which may ultimately determine if they choose to live here. The removal of car storage from the site, shifting the residents to other means of transport, is in line with local and national policy in this regard. The provision of car club spaces and a shared bicycle scheme will aid in the sustainability of parking provision, and will further reduce the traffic impact of the development. Issues regarding the potential for illegal parking in surrounding streets is a matter for law enforcement and the planning authority, outside the remit of this planning application. I consider the development as proposed can adequately cater for the parking requirements of future residents.

11.12.26. I note the applicant addresses the issue of car parking in the submitted Material Contravention Statement. Having regard to all of the above, I am of the opinion that the proposal does not represent a material contravention of the Development Plan in terms of car parking provision, and I address this issue further in section 11.14 hereunder.

#### Construction Traffic

11.12.27. I note the concerns raised by some parties regarding construction stage impacts. A preliminary construction management plan has been submitted by the applicant, which sets out mitigation measures. The EIAR has addressed construction phase impacts of the development in terms of traffic, noise and dust.

11.12.28. All construction activities by their very nature result in elevated emissions (noise, dust, etc.) and increases in construction traffic above the baseline environment. However, these are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts. The applicant has also submitted a Preliminary Construction and Waste Management Plan and a Traffic Management Plan which includes the management of traffic during the construction phase. Both plans employ mitigation measures in relation to traffic management, noise and vibration, air quality and dust control and construction working hours. The implementation of these mitigation measures will further reduce any adverse amenity impacts during the construction phase.

#### Conclusion – Traffic

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

### 11.13. **Water Services, including Flooding Issues**

11.13.1. I note a number of submissions raise concerns in relation to inadequate foul and storm water drainage, odours/waste from proposed sewerage tank, lack of drainage and necessary consents and prematurity due to existing deficiencies in wastewater network.

11.13.2. The CE Report raises concerns in relation to the proposed wastewater details for the site. The accompanying report from the Drainage Planning Section raises a number of issues, including lack of information submitted for agreement prior to the lodging of the application in relation to the modelling design and inputs, with a condition recommended to address this issue. It is noted that while the applicant has submitted a SSFRA, it does not address how the Irish Water storage tank will be contained in the event of an emergency and who will have responsibility for maintaining the foul balancing tank or respond to emergencies and a condition is recommended to address this issue. The CE Report has recommended the following reason for refusal: Having regard to the scale and nature of the proposed wastewater infrastructure proposed within the subject site, and in particular the storage tank, and given the lack of clarity regarding the future management and maintenance of same, particularly in the case of an emergency, the planning authority is not satisfied that this aspect of the scheme would not pose a potential risk to public health.

#### Water and Wastewater

11.13.3. It is proposed to connect the development to the public water network in the area, with no capacity or network issues raised by Irish Water.



11.13.4. I note under the previously refused application on this site, SHD ref ABP-306335-19 (refused on 16<sup>th</sup> April 2020), one of the reasons for refusal was as follows: 'The proposed development would be premature having regard to the existing deficiencies in the wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease'. The Inspector's Report relating to that application referred to the Irish Water submission, dated 2nd March 2020, which stated that 'having regard to the scale of the proposed development it is necessary to carry out further detailed studies to confirm the available capacity of the wastewater network and the full extent of any upgrades and consents that may be required to facilitate the proposed connection'. The Irish Water submission further stated that a detailed hydraulic modelling assessment is required which will be completed as part of the West Pier Drainage Area Plan due for completion in Q4 of 2021 in order to confirm the downstream foul network capacity and upgrades and consents required.

11.13.5. The applicant states in the submitted Planning and Statement of Consistency Report that 'Wastewater constraints identified in the previous application have been subject to detailed consultation with Irish Water. Modelling completed by Irish Water in respect of the storm and foul sewers serving the wider area identified a future requirement for balancing storage to limit downstream overflows'.

11.13.6. The Irish Water submission in relation to this current application states in respect of wastewater 'Construction of an on-site pumping station and storage tank is required to pump only foul water into the proposed combined sewer. In heavy rainfall conditions and if the combined sewer is under pressure the developers flow will cease, and the flow will be stored in the proposed tank. It will then be returned to the system when the system returns to capacity. Design of the pump station and related equipment has to be agreed with IW at connection application stage. Some enhanced features in terms of telemetry, pump resilience will be required at this foul pump station. The 2150m<sup>3</sup> tank should be compartmentalised to enable sequential filling to reduce cleaning maintenance after use. Dosing facilities may also be required at the site. Storm water from the proposed development site has to be discharged separately'. While observers raise concerns in relation to potential disamenity from odours from the storage tank and pumping station, I am satisfied that once it is constructed to IW design standards, no odours will arise.

- 11.13.7. In terms of the existing foul network, there is an existing foul drain (225 diameter) adjacent to the site's eastern corner, at the northern end of Willow Grove. An existing combined sewer (300 diameter) is located approx. 240m from the eastern corner of the site (in the verge adjacent to the N11).
- 11.13.8. The development proposes an on-site 2,150 m<sup>3</sup> balancing storage tank (located in the north eastern corner of the site). An on-site pump station is proposed which is to be integrated within the 2,150 m<sup>3</sup> balancing storage tank (located in the eastern corner of the site) which will facilitate a potential future upgrade of the Foxrock catchment by Irish Water. An 825mm diameter combined sewer is also to be constructed, traversing the site from the entrance at Old Bray Road to the balancing storage tank. This pipeline will also facilitate a potential future upgrade of the Foxrock catchment by Irish Water. It is stated in the submitted Planning Report and Statement of Consistency that the provision of this storage volume and 825mm diameter combined sewer is not required to facilitate the development and will form part of potential future upgrades of the wider Foxrock catchment by Irish Water. It is stated that all works proposed are consistent with the requirements of the Confirmation of Feasibility received from Irish Water in respect of a pre-connection enquiry. To service the development in the short term, it is stated in the submitted Infrastructure Design Report that construction of an on-site pumping station and storage tank is required in order to store foul drainage flows from the development during heavy rainfall conditions should the existing combined sewer network downstream come under pressure. Telemetry provisions will be used to control the operation of and discharge from the site pump station. Emergency storage is facilitated at this pump station for both 24-hour and 48-hour foul drainage flows from the development. Stored drainage flows are then returned to proposed 300 diameter combined sewer which outfalls from the site's eastern corner, towards northern end of Willow Grove and onwards along the verge adjacent to the N11 prior to discharge to manhole SO22257704 on the existing combined sewer network (approx. 240m from the eastern corner of the site). The proposed 300 diameter pipeline will also facilitate potential future upgrades of the wider Foxrock catchment by Irish Water – ref. drawing 180208-DBFL-XX-XX-DR-C-3004 (Site Services Layout - Sheet 2). It is stated that the 300mm outfall also receives flows from the site foul pump station during its standard operation, (ie outside storm events).

11.13.9. Irish Water is the body responsible for addressing pre-connection enquiries in relation to the impact of a development on their network. The proposed development, which includes elements to upgrade the wider Foxrock catchment, will be subject to a connection agreement with Irish Water prior to commencement of any works. While the PA raises concerns in relation to potential maintenance and responsibility issues, this is a matter which would be addressed as part of any connection agreement with Irish Water. I note IW in their submission state 'Design of the pump station and related equipment has to be agreed with IW at connection application stage'. It is further stated in the submitted Infrastructure Design Report that 'The applicant will continue to engage with Irish Water with regard to the scope of works and delivery strategy for the balancing storage tank'. I note the submitted Architectural Design Report states that the layout of the scheme has been designed to facilitate future access by IW to maintain the infrastructure within the site. I note Irish Water has not indicated an issue in terms of ability of the network to accommodate the development as proposed nor does it raise significant issues with the design as now proposed.

11.13.10. An observer raises a concern that the proposed Drainage Drawing no. DBFL-XXXX-DR-C-3001 Site Services Sheet Layout 1, indicates the need to extend the surface water and foul sewers through the open space serving Willow Grove and, in the case of the foul pipe along the N11 corridor. It is stated that these works are not specified nor is the area included within the red line boundary, and no consent letter has been provided by the applicant to facilitate these works being undertaken. There is a question mark over whether the open space is taken in charge. I note the open space in Willow Grove was stated not to be taken in charge by the PA in the previous application on this site, however, it is not commented upon in this application. It was indicated by the applicant in the previous application on the site services layout that the location of the pipeline for the proposed surface water outfall was on land north of Willow Grove, was taken in charge by DLRCC and this was not disputed by the PA in the previous application. I note under that application the proposed outfall to the public foul drainage infrastructure was along side the surface water outfall and within the same lands stated to be taken in charge by DLRCC. In this application the proposed surface water outfall is as previously proposed, however there is no statement as to whether it is taken in charge. Observers have

questioned the lack of ownership by the applicant of the open space in Willow Grove and lack of permission to undertake the pipe work (I note residents do not claim ownership over Willow Grove open space but maintain it in terms of grass cutting/flower planting etc). In terms of ownership, it is stated in one of the observer submissions that the open space is owned by two individuals associated with the development of Willow Grove and in others it is stated that ownership is not known. The foul sewer pipeline in this application follows a different alignment to that shown in the previous application, with a section shown traversing the open space in Willow Grove. In any event it is not taken in charge by DLRCC. There appears to be nothing on file to indicate whether discussions have taken place with the owners (if known) of Willow Grove open space and no consent is indicated in the file. It is not clear if the developer is proposing to undertake the works on behalf of Irish Water or if Irish Water under their exempt development provisions are proposing to undertake the works. In terms of legal interest, I am satisfied that the applicants have provided sufficient evidence that they have sufficient legal interest in the site for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter, and are outside the scope of this application. This is a matter to be resolved between the parties, having regard to the provisions of section 10(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, which states, a person shall not be entitled solely by reason of a permission under Section 9 to carry out any development. I further note the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land and these are ultimately matters for resolution in the Courts.

11.13.11. Should the applicant not have the right to undertake the works in relation to the 300 diameter foul sewer traversing the open space in Willow Grove, it may be feasible to connect to the pipe northwards (as was previously proposed in the previous application on these lands), via the lands adjoining the N11 which appear to be in the ownership of DLRCC. I have assessed both options in terms of potential EIA and AA implications and no additional matters arise should this option be pursued.

11.13.12. I consider the matter of the alignment and delivery of the foul sewer pipeline can be addressed by way of condition and prior to any development commencing on site, should the Board be minded to grant permission.

#### Surface Water Management

11.13.13. Surface water is proposed to connect into the existing surface water network. There is an existing 225mm diameter surface water drain adjacent to the site's eastern corner (at the northern end of Willow Grove). This pipeline outfalls to the east via a crossing under the N11, South Park and Clonkeen College. An existing 600mm concrete surface water line is located adjacent to the site's north-eastern boundary. Outfall from the site will be to the existing surface water drain at the site's eastern corner.

11.13.14. Surface water discharge rates from the proposed surface water drainage network will be controlled by a vortex flow control device and associated underground attenuation tanks. Surface water discharge will also pass via a full retention fuel / oil separator. The proposed surface water drainage network will collect surface water runoff from the site via a piped network prior to discharging off site via the attenuation tank, flow control device and separator arrangement.

11.13.15. In terms of surface water management, a SUDS strategy is proposed, which includes green roofs (apartment buildings), bio-swale filter drains/infiltration trenches (rear gardens of houses), drainage reservoir/board over the podium slab, tree pits with overflow to conventional road gullies, permeable paving (the permeable paving is not intended to provide infiltration, due to the poor ground conditions present on the site. An impermeable membrane is proposed beneath the paving to prevent cross-contamination from groundwater). It is stated that any incidental surface water runoff generated from the basement carpark would drain through a separate system beneath the basement slab (out falling to the proposed foul drainage network via a petrol interceptor). A Stage 1 Stormwater Audit has been submitted with the application.

11.13.16. A Site-Specific Flood Risk Assessment (FRA) was submitted as part of the application. The site is located within Flood Zone C. While an issue was raised in the Drainage Planning Section Report in relation to flood flows and the storage tank and who will be responsible for the tank in the event of an emergency, I consider this is

an issue which can be addressed by way of condition and as part of any pre connection agreement with Irish Water.

11.13.17. Should the Board be minded to grant permission, I recommend a condition apply requiring a Stage 2 Detailed Design Stage Stormwater Audit, the findings of which shall be incorporated into the development, where required, at the developer's expense and a Stage 3 Completion Stage Stormwater Audit within six months of substantial completion of the development, the findings of which shall be incorporated into the development, where required, at the developer's expense.

#### **11.14. Material Contravention**

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

- Building Heights
- Car Parking
- Apartment Standards and BTR
- Separation Distances

11.14.2. Each item is considered against the DLR County Development Plan 2016-2022, as well as against the Draft DLR County Development Plan. I consider the material contravention issues against the operative development plan only, which is the DLR County Development Plan 2016-2022.

#### **Building Height**

11.14.3. The applicant states that the Building Height Strategy could be interpreted to limit the development height at the subject site, which is located within an established commercial core, to a maximum of 6 no. storeys (3-4 storeys with an upward modifier of a possible 2 storeys). The proposed development provides for building heights ranging from 4 to 12 no. storeys and therefore could be considered to constitute a material contravention.

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

11.14.5. Section 4.8 of Appendix 9 relates to 'Residual Suburban Areas not within the Cumulative Areas of Control' and states '...apartment or town house type developments or commercial developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate location'. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two. Given the heights of Apartment Blocks A, B, and C are in excess of what is allowed for in terms of the building height strategy, being greater than two floors above four storeys, assuming the upward modifiers are applied, I consider the proposal a material contravention of the building height strategy with regard to Blocks A, B, and C. I note Block D is 4-5 storeys in height and Block E is 4 storeys. I have reviewed the BHS strategy with regard to Block D and E and consider upward modifiers apply and these blocks are not a material contravention of the development plan given the size of the site (greater than 0.5ha in area), proximity to public transport and potential to facilitate desire lines. I consider residential amenity is protected in the proposed design and layout, therefore I have not considered the application of downward modifiers necessary.

11.14.6. Given the proposed development is a material contravention of the height strategy, it is open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

### **Car Parking**

11.14.7. The material contravention statement addresses the issue of car parking and the operative development plan. The applicant sets out the development plan policy and notes that Table 8.2.3 represents 'standard' parking provision for residential development and the development plan provides for reduced car parking standards. It is stated that it is nonetheless considered that the proposed development may represent a material contravention of the current Development Plan given the parking is below the standard indicated in the development plan.

11.14.8. Policy ST3 of the operative CDP deals with the matter of modal shift and states that 'It is Council policy that...effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy'. Section 8.2.4.5 of DLR county development plan states that 'Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments. The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. The Council considers the application of maximum parking standards for non-residential land uses to be a key measure in influencing the travel mode choice for all journeys. Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

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

11.14.9. 'Standards' are stated in the development plan to act as a guide and therefore I do not consider an interpretation of Table 8.2.3 as minimum standards which shall be met in all instances is correct. Given the flexibility that is set out in the plan in relation to parking where reduced car parking standards for any development can be considered subject to certain criteria, I do not consider a material contravention in relation to this issue arises.

11.14.10. Should the Board consider a material contravention issue arises, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 as amended, in particular



section 37(2)(b)(i) and (ii), due to strategic nature of application and conflicting policies within the operative County Development Plan.

### **Apartment Development Standards and BTR**

11.14.11. The applicant notes that the Advisory Note at the beginning of Chapter 8 of the DLR County Development Plan 2016-2022 acknowledges that certain apartment development standards set out in Section 8.2.3.3 have been superseded by the Apartment Guidelines in so far as they relate to design standards, dual aspect, internal storage, minimum apartment floor areas and public, communal, and private open space. The applicant states that while it is not considered that these represent a material contravention, an abundance of caution approach has been adopted in the identification of the provisions referenced and addressed in this Statement should the Board considered them to be material deviations. In summary these matters relate to apartment development standards relating to:

- Aspect
- Unit Mix;
- Storage Provision;
- Apartment Sizes/Floor Areas;
- Private Amenity Space;
- Public / Communal Open Space Provision;
- Separation Distances between Blocks.

11.14.12. As noted above, the advisory note at the beginning of Chapter 8 of the DLR County Development Plan 2016-2022 acknowledges that certain apartment development standards set out in Section 8.2.3.3 have been superseded by the Apartment Guidelines in so far as they relate to design standards, dual aspect, internal storage, minimum apartment floor areas and public, communal, and private open space. I have applied the Apartment Guidelines in this assessment, specifically SPPR7 and SPPR8, and I consider that a material contravention issue in relation to these standards does not arise. I further note that 'standards' are stated in the development plan to act as a guide and I do not consider them prescriptive in nature. Under each specific heading of aspect, unit mix, storage provision, apartment sizes/floor area, private amenity space, public/communal open space provisions, and

separation between blocks there is provision for a degree of flexibility in relation to how the standard is application, therefore material contravention issues do not arise.

11.14.13. However, it is open to the Board to invoke section 37(2)(b) of P&D Act 2000 having regard to section 37(2)(b)(i) and (iii), as this matter has been addressed in Material Contravention Statement.

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

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

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

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

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

or

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

or

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

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

- 11.14.17. With regard to S37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application site has the potential to contribute to the city's delivery of compact urban growth and to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016
- 11.14.18. In relation to the matter of conflicting objectives in the development plan, S37(2)(b)(ii), I have reviewed the plan and there are no conflicting objectives within the Dun Laoghaire Rathdown County Development Plan 2016-2022, insofar as the proposed development is concerned. The Development Plan is clear in terms of building heights.
- 11.14.19. With regard to S.37(2)(b)(iii), I consider the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35. I have considered the proposed development against the Urban Development and Building Height Guidelines – Guidelines for Planning Authorities 2018, in particular SPPR3. The guidelines state that implementation of the National Planning Framework requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before.
- 11.14.20. I am satisfied that the proposal can be granted in relation to height with respect to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended), having regard to the NPF and the Urban Development and Building Height Guidelines 2018, specifically SPPR3.

#### **11.15. DLR CE Report – Refusal Recommended**

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

1. The height of proposed Blocks A and B would be greater than six storeys permissible in a residual area as defined by the Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would result in an abrupt and significant departure from the prevailing building height in the area. The applicant has not demonstrated to the satisfaction of the planning authority that proposed building heights are appropriate at this location. The proposed development would therefore be contrary to the building height strategy for the county and would materially contravene the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

I refer the Board to Section 11.7 of this report. I have considered the height scale and massing of the proposed development in the context of national and local policy and S28 Building Height Guidelines. I am satisfied that the height proposed can be accommodated at this location and would be consistent with national and local policy in relation to densification of infill sites in close proximity to public transport corridors. A material contravention of the development plan arises in relation to this issue and I consider this would be justified in this instance (see Section 11.14 above).

2. Having regard to the proposed design, layout and quality open space provided, in particular the large amount of hard standing, the lack of a primary area of quality open space (noting a large portion of the area by Block D will be overshadowed), the lack of public open space, as well as the suboptimal use of raised podium level open space, it is considered that the proposed development would result in an unacceptable standard of residential amenity for the future occupants of the development. The proposed development would, therefore, be contrary to the public/communal open space requirements for residential development set out in Section 8.2.8.2 and 8.2.8.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

In excess of 10% of the site area has been proposed as open space, in accordance with minimum requirements of the operative development plan. I consider the open space proposed to be of exceptional high quality. I consider the proposal is in accordance with the chapter 8 guidance in this regard. I have also considered the

open space against the Apartment Guidelines and SPPR7 and SPPR8 and I am satisfied that the development as proposed would deliver high quality open space for future residents.

3. Having regard to the height, scale and massing of the scheme, it is considered that the proposed development would appear visually obtrusive when viewed from the N11 and surrounding areas and would be visually overbearing when viewed from the N11 and surrounding areas and would be overbearing when viewed from the residential properties at the northern end of Willow Grove. Furthermore, the proposed development would fail to integrate in a coherent manner with its surrounding context, through its massing, scale and lack of linkages with the surrounding area. The proposed development would therefore give rise to adverse impacts on the visual and residential amenity of the area, and as such would be contrary to the Objective A zoning of the site, to protect and/or improve residential amenity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

I refer the Board to section 11.7 of this report. I have considered the height, scale, massing and design of the proposal, relative to the N11 and as viewed from neighbouring properties, in particular Willow Grove. I am satisfied that the development as proposed will result in a permeable development and will sit comfortably within the existing urban environment and will not be overbearing given separation distances from boundaries and modulation in building height. I do not consider a link to Willow Grove is required in terms of permeability, with the more pertinent links being between the N11 and Old Bray Road, as proposed. I consider the development has satisfactorily had regard to the context of existing neighbouring properties in its design and layout, balanced against the need to development this accessible site, adjoining a public transport corridor for sustainable high density development. I am overall satisfied that the development as proposed is acceptable and will not have a significant negative impact on the visual and residential amenities of the area.

4. Having regard to the intermediate urban location of the site, it is considered that the proposed development would be reason of the inadequate number of car parking spaces proposed and appropriate allocation, be contrary to the

car parking standards for residential uses set out in Section 8.2.3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and would result in car parking overspill onto surrounding roads. The proposed development would therefore seriously injure the amenities of properties in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.

I refer the Board to Section 11.12 of this report. I am satisfied, having regard to the submitted TTA and the location of the site that the level of car parking proposed will support the sustainable development of this new community and the surrounding road network is capable of accommodating the development as proposed. The level of parking proposed is consistent with national parking policy and SPPR8 of the Apartment Guidelines.

5. Having regard to the scale and nature of the proposed wastewater infrastructure proposed within the subject site, and in particular the storage tank, and given the lack of clarity regarding the future management and maintenance of same, particularly in the case of an emergency, the planning authority is not satisfied that this aspect of the scheme would not pose a potential risk to public health.

Irish Water has made a submission in relation to the proposed application and raises no issues in respect of the design, layout, or public health issues in relation to the proposed wastewater network to serve the site.

#### 11.16. **Other Matters**

##### Constitutionality of Legislation and Ministerial Guidelines

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

##### Consultation

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

### Procedural Issues

11.16.3. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations.

11.16.4. In relation to representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and it forms the legitimate process for the determination of this application.

### Property Value

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

### Part V

11.16.6. I note changes have been made in relation to Part V under the Affordable Housing Act 2021 and this may impact the applicants Part V obligations and a review will be required. This issue can be addressed by way of condition and 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.

### Waste Management

11.16.7. Site specific waste management plans have been submitted with the application for the operational and construction phases of the development.

## **12.0 Screening for Appropriate Assessment**

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

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

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

12.2.1. The applicant has submitted a titled Natura Impact Statement as part of the planning application, within which is Section 2 is titled Screening for Appropriate Assessment. The report is dated November 2021.

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

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

- Preliminary Construction Management Plan
- Infrastructure Design Report
- Preliminary Construction Environmental Management Plan
- Resource and Construction Waste Management Plan
- Ecological Surveys (see EIAR)
- Ground Investigation Report

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

'...For five European sites (namely Rockabill to Dalkey Island SAC, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA) there is potential for contaminated water emanating from the application site to enter water courses and ultimately the aquatic and intertidal environments of these sites during the construction and (to a lesser extent) operational phases of the proposed development. The significance of any subsequent effect on the qualifying interests/special conservation interests of the Natura 2000 sites would vary depending on the type of pollutant, as well as the magnitude and duration of the event. As the conservation objectives of the five identified Natura 2000 sites could potentially be affected adversely, measures are required to avoid or reduce harmful effects of the proposed project (i.e. mitigation measures). Therefore, as the risk of potential significant effects on these European sites cannot be



ruled out, Section 3 of this report provides information to allow the competent authority to carry out a Stage 2 Appropriate Assessment in respect of the proposed development'.

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

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

12.3.1. The proposed development is examined in relation to any possible interaction with European sites, designated Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

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

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

12.3.3. The development site/overview of the receiving environment is described in the submitted screening report (section 2.1). I refer the Board also to section 3 of this report above in relation the description of the proposed development and section 2.2 of the submitted Screening Report. In summary, the proposed development is for 419 build-to-rent units on a largely greenfield site, 2.15ha in area, within the urban area of Dublin.

12.3.4. The environmental baseline conditions are discussed, as relevant to the assessment of ecological impacts, where they may highlight potential pathways for impacts associated with the proposed development to affect the receiving ecological environment (e.g. hydrogeological and hydrological data), which informs whether the development will result in significant impacts on any European Site.

- 12.3.5. The Ecological Survey within the EIAR notes there are alien invasive species on the site. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence that species listed in Annex II of that Directive are present. With regard to habitats and flora, the main vegetative cover is grassland, described as dry meadow and grassy verges. The site offers no potential for roosting bats as there are no mature or large trees or suitable buildings. The potential for foraging by bats is also low as there are no hedgerows or treelines on site. The site does not have any habitat suitable, i.e. ponds or large drains, for amphibian species (common frog *Rana temporaria* or smooth newt *Lissotriton vulgaris*). No bird species of conservation importance, and especially wetland bird species, would be expected within the site given the lack of suitable habitat.
- 12.3.6. There are no water courses, bodies of open water or habitats on the site which could be considered wetlands. The site is within the WFD River Sub-basin the Carrickmines River. The Cabinteely Stream (EPA Code 1OC05) flows to the western side of the Old Bray Road, and joins the Carrickmines Stream south of Cabinteely Park. The Carrickmines Stream continues eastwards and flows into the Shanganagh River. The Shanganagh enters the sea between Ballybrack and Shankill. There is no direct connectivity from the site to this stream, which enters the sea at a distance of c.5km southeast of the site. Surface water drainage from the proposed development will discharge into the public surface water network at the northeastern corner of the site, with this pipe crossing under the N11, South Park and Clonkeen College and ultimately discharging to the Deansgrange Stream 600m to the northeast (as the crow flies), which discharges ultimately to Dublin Bay, a further c. 5km to the southeast.
- 12.3.7. Wastewater is proposed to discharge to existing foul sewers, which discharge to the Ringsend WWTP for treatment prior to discharging to Dublin Bay. An on-site pumping station and storage tank is required to store foul drainage flows from the development during periods of heavy rainfall or when the combined sewer is under pressure. Stored drainage flows would then return to the proposed new 300 diameter combined sewer (to be delivered in conjunction with IW as part of a connection agreement) which outfalls from the site's eastern corner and onwards along the verge adjacent to the N11 prior to discharge to a manhole approx. 240m from the eastern corner of the site. The on-site pump station is to be integrated within a 2,150

m3 balancing storage tank (located in the eastern corner of the site). An 825mm diameter combined sewer is also proposed, traversing the site from the entrance at Old Bray Road to the 2,150 m3 balancing storage tank (located in the eastern corner of the site). Both the balancing storage tank and the combined sewer traversing the site have been designed to facilitate a future possible upgrade of the Foxrock catchment by Irish Water should it be considered necessary.

12.3.8. As part of the surface water management system, it is proposed to install SUDS measures, including green roofs, permeable paving, compacted gravel, infiltration soakaway, and attenuation chambers. It is noted that the SUDS proposals are standard measures in all new developments and are not included here to avoid or reduce an impact to a European site. I have not considered the SUDS strategy for the site as part of this assessment.

12.3.9. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Habitat loss/fragmentation
- Habitat disturbance /species disturbance
- Habitat degradation as a result of hydrological links

#### **Submissions and Observations**

12.3.10. The submissions and observations from the Local Authority, Prescribed Bodies, and Observers are summarised in sections 7, 8 and 9 of this report. I note the following points in relation to Appropriate Assessment were raised in a submission from John Conway and Louth Environmental Group:

- The information is insufficient, contains lacunae, and is not based on appropriate scientific expertise.
- AA – insufficient surveys to assess potential impact from bird collisions/flight risk and bird flight paths.
- Zone of influence in AA and NIS is not reasoned or explained.

- AA Screening and NIS fails to identify and consider all protected bird species, including by collision flight risk during construction and operation phases and loss of ex-situ feeding sites.
- AA Screening Report and NIS has regard to mitigation measures.
- Cumulative effects inadequately considered.
- Insufficient site-specific surveys for the purposes of AA Screening and NIS and absence of site specific scientific evidence.
- Reliance on Ringsend WWTP misconceived for purposes of AA Screening.
- Impacts on conservation objectives of SPAs and SACs inadequately explained.
- Board lacks ecological and scientific expertise in order to examine EIA Screening Report.

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

### **European Sites**

12.3.12. The development site is not located in or immediately adjacent to a European site. A summary of the European Sites that occur within a possible zone of influence of the proposed development are set out within the screening section of the Natura Statement submitted and listed below. The site is separated from the identified European sites by (straight line) distances of between 3 km and 14 km.

12.3.13. One observer questions the methodology of the AA Screening Report in terms of the zone of influence. I have not confined myself to a specific distance but have undertaken a site specific assessment based on characteristics of the site, distance to European sites and consideration of the source-pathway-receptor model.

12.3.14. There are no direct hydrological links between the application site and the identified European sites in the submitted Screening Report. Indirect connectivity is identified in the submitted screening section of the Natura Impact Statement which states that as the natural drainage of the Cornelscourt area is to a network of streams which link into the Loughlinstown/ Shanganagh river system, with the Shanganagh River entering the sea between Shankill and Ballybrack in Killiney Bay, there is a theoretical hydrological linkage between the site and the Rockabill to

Dalkey Island SAC, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA. It is indicated that this connection and risk relates to surface water runoff during the construction and operational phase to the network at the northeast corner of the site and that in the absence of mitigation pollutants generated on site could reach the waters of the SACs and SPAs and potentially have effects on some of the qualifying interests of the SACs and SPAs.

12.3.15. European sites considered in the screening report are identified in figure 3.2 and table 3.1. I have considered the qualifying interests/special conservation interests of these European sites, in addition to examination of the application site in terms of the source-pathway-receptor model, and the distance from the application site to these European sites in table 4 hereunder. In view of the identified potential indirect hydrological connection to sites within Dublin Bay and Killiney Bay via the surface water system, I consider that the potential for effects on six sites need to be considered in more detail at the Screening Stage, namely, South Dublin Bay SAC (000210), Rockabill to Dalkey Island SAC (00300), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), Dalkey Island SPA (004172), and North Bull Island SPA (00406).

#### Factors Likely to Give Rise to Potential Impacts

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

12.3.17. Habitat disturbance/species disturbance: With regard to direct impacts of habitat loss and disturbance, the application site is not located adjacent or within a European site. Given the scale of works involved, the nature of the existing intervening urbanised environment and distances involved to European sites, habitat disturbance is unlikely to occur. With regard to indirect impacts, the area around the proposed development is suburban in style, the land has not been identified as an ex-situ site for qualifying interests of a designated site, and the lands themselves are not suitable for ex-situ feeding or roosting of wetland birds. The site is too far from

bird roosting areas to result in impacts from noise or other forms of human disturbance during construction and operation. One submission has raised concerns in relation to bird flight paths and potential for collisions. No significant flight paths related to protected birds have been identified in this area and the observer has submitted no evidence in relation to existence of flight paths. I furthermore note the proposed buildings are not particularly tall, there are other similarly scaled buildings in the wider area, and there is no reason to believe a bird would not fly over or around such structures.

12.3.18. Habitat degradation as a result of hydrological impact: There is no direct pathway from the site to any European site. There is an identified theoretical indirect link via the existing surface water network network to the Killiney Bay and Dublin Bay area. The submitted Natura Impact Statement document states under the screening section that the natural drainage of the Cornelscourt area is to a network of streams which link into the Loughlinstown / Shanganagh River system. The Shanganagh River enters the sea between Shankill and Ballybrack in Killiney Bay. An existing 225mm diameter surface water drain is located adjacent to the site's eastern corner (at northern end of Willow Grove). This pipeline outfalls to the east via a crossing under the N11, South Park and Clonkeen College and ultimately discharges to the Deansgrange Stream.

12.3.19. I note the surface water from the site will discharge to the public network. With regard to any potential pollutants or sediment arising from surface waters on site via the surface water network at construction stage, I consider the potential for significant effects can be excluded on the basis that the nature of any discharges during the construction phase is temporary and standard pollution control would be put in place during construction (which is standard practice for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to European sites); in relation to the operational phase I note the fact that there will be no significant increase in surface water run-off and that surface water run-off will be attenuated and part treated within the site (the inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment). Should a pollution event occur during the construction or operation phase due to the accidental spillage

or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay or Killiney Bay due to the level of separation distances between the application site and European sites; given the volume of water in the surface water network and potential for any sediments/pollution to be dissipated; and given the level of mixing, dilution and dispersion of surface water in the receiving water of Dublin Bay and the Irish Sea. The proposed development will not therefore impact the overall water quality status of Dublin Bay or Killiney Bay and there is no possibility of the proposed development impacting the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay or Killiney Bay. While a SUDS strategy is proposed for the development, I note this is not required or related to the protection of any European Sites and I have considered potential impacts with no SUDS strategy in place.

12.3.20. I note the applicant submitted a Natura Impact Statement in relation to surface water connectivity, however, on the basis of my assessment above I consider that a stage two assessment in relation to surface water is not warranted and represents an over-abundance of precaution in this instance.

12.3.21. While the submitted Natura Impact Statement has not considered indirect impacts with regard to the wastewater network and only the surface water network, I consider here in the interests of thoroughness the wastewater network. Wastewater will discharge to Ringsend WWTP. Irish Water indicates that the Ringsend WWTP plant is operating above its capacity of 1.64 million P.E. (Irish Water, 2017), with a current operational loading of c.2.2 million P.E. Despite the capacity issues, the Liffey Estuary Lower and Dublin Bay are currently classified by the EPA as being of “Unpolluted” water quality status and the Tolka Estuary is currently classified by the EPA as being “Potentially Eutrophic”. I note that Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. I consider the peak effluent discharge from the proposed development would be insignificant given the overall scale of the Ringsend facility and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). On the basis of the foregoing, I conclude that the

proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay. It is also noted that Irish Water in their submission raised no concerns in relation to the proposed development. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality in Dublin Bay.

12.3.22. Habitat degradation as a result of hydrogeological impacts: I have considered the potential for hydrogeological impacts given the proposal for a basement. The proposed development lies within the Wicklow Groundwater Body. I note a basement is proposed as part of the proposed scheme which will require excavation of approximately 3-4m below ground level on the Bray Road portion of the site reducing to near ground level closer to the N11 side of the site. Standard construction techniques of dewatering will apply where necessary and any hydrocarbons present will be removed from dewatered groundwater prior to discharge (as per the Construction Environmental Management Plan). However, in the unlikely event that pollutants enter the ground water, I note the significant distance of the site from European Sites (see table 4 below), level of settling and dilution likely to occur prior to reaching of any European site, and the lack of a direct hydrological link. I am therefore satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of any European sites, either alone or in combination with any other plans or projects, as a result of hydrogeological effects.

12.3.23. Cumulative Impacts: Other relevant projects and plans in the region have been considered and no cumulative impacts have been shown to arise.

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



European Site	Distance	Screening Comment
<p><b>South Dublin Bay SAC [000210]</b></p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	c. 3 km	<p>South Dublin Bay SAC is designated for a range of coastal and estuarine habitats.</p> <p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development site and this SAC, nor do protected coastal or estuarine habitats occur within or in immediate proximity to the project site.</p> <p>Indirect connectivity exists to this SAC, as the Cornelscourt area drains to Killiney Bay via Carrickmines/Shanganagh River system, however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Rockabill to Dalkey Island SAC [003000]</b></p> <p>[1170] Reefs</p> <p>[1351] Harbour porpoise <i>Phocoena phocaena</i></p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of</p>	c. 6 km	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the development site and this SAC. The QI habitats and species are marine in nature and therefore do not occur within the project site.</p> <p>Indirect connectivity exists to this SAC, as the Cornelscourt area drains to Killiney Bay via Carrickmines/Shanganagh River system,</p>

<p>the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		<p>however, given the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>North Dublin Bay SAC (000206)</b></p> <p>Habitats 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 2190 Humid dune slacks</p>	<p>c. 9km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>Indirect connectivity exists to this SAC, as the Cornelscourt area drains to Killiney Bay via Carrickmines/Shanganagh River system, however, given the distances involved and the dilution and dispersal that would occur within the Irish Sea this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC in view of their conservation objectives.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>Species 1395 Petalwort (<i>Petalophyl lum ralfsii</i>)</p> <p><u>Conservative Objective</u> - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		
<p><b>Howth Head SAC (000202)</b></p> <p>[1230] Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>[4030] European dry heaths</p> <p><u>Conservation Objectives:</u> to maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected</p>	<p>c. 13km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>Given the distances involved and the absence of any possible Source-Pathway-Receptor, hydrological linkages have not been identified between the proposed development site and the Howth Head SAC, therefore there can be no impacts on the QI habitats of the SAC.</p>
<p><b>Ballyman Glen SAC (000713)</b></p> <p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[7230] Alkaline fens</p> <p><u>Conservation Objective:</u> to restore the favourable conservation condition of the Annex I habitats for</p>	<p>c. 8km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the development site and this SAC, nor do these habitats occur within or in close proximity to the project.</p> <p>There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors.</p> <p>The location, scale and duration of the development project is such that they will not</p>

<p>which the SAC has been selected.</p>		<p>contribute to direct, indirect or in-combination impacts on habitats for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Wicklow Mountains SAC (002122)</b></p> <p>[3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>[3160] Natural dystrophic lakes and ponds</p> <p>[4010] Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>[4030] European dry heaths</p> <p>[4060] Alpine and Boreal heaths</p> <p>[6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i></p> <p>[6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>[7130] Blanket bogs (* if active bog)</p> <p>[8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p>	<p>c. 10km</p>	<p>This mountainous SAC is designated for a range of habitats and for the conservation of otters found within the rivers of the Wicklow mountains.</p> <p>There is no direct source-pathway-receptor between the site and this SPA, therefore there can be no impacts on the QI habitats of the SAC.</p> <p>There is no direct overlap between the development site and this SAC, nor do any of these habitats occur within or in close proximity to the project. Given the lack of direct or indirect connectivity, the project will similarly not impact the otter populations associated with this SAC.</p> <p>There is no indirect connectivity from the project to this SAC via surface water features, drainage ditches or by any other vectors.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> <p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>[1355] <i>Lutra lutra</i> (Otter)</p> <p><u>Conservation Objective</u>: to maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>		
<p><b>Knocksink Wood SAC (000725)</b></p> <p>Habitats 7220 Petrifying springs with tufa formation (Cratoneurion)*</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>)*</p> <p><u>Conservative Objective</u> - To maintain or restore the</p>	<p>c. 8km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct spatial overlap between the site and this SAC.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		
<p><b>Bray Head SAC (000714)</b></p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>c. 12km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>Glenasmole Valley SAC (001029)</b></p> <p>6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) 10 Dec 2021 Version 1 Page 4 of 13</p> <p>6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) 7220</p>	<p>11.2km</p>	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>

<p>Petrifying springs with tufa formation (Cratoneurion).</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>		
<p><b>Howth Head SAC (000202)</b></p> <p>Habitats 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 4030 European dry heaths</p> <p><u>Conservation Objective:</u> To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>	12.3km	<p>There is no direct source-pathway-receptor between the site and this SAC.</p> <p>There is no direct overlap between the project site and this SAC, nor do these habitats occur within or in close proximity to the project site.</p> <p>The location, scale and duration of the development project is such that they will not contribute to direct, indirect or in-combination impacts on habitats or species for which the SAC has been designated and do not have the potential to affect the conservation objectives of these habitats.</p>
<p><b>South Dublin Bay and River Tolka Estuary SPA (004024)</b></p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p>	c. 3km	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct spatial overlap between the site and this SPA. The project site is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. There is no evidence of the project site being used by field feeding species, as per site surveys undertaken. The proposed project will not impact upon the migratory flight paths of SPA</p>

<p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p>[A999] Wetland and Waterbirds</p> <p><u>Conservation Objective:</u> to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>		<p>species nor restrict their mobility between wetland sites.</p> <p>Indirect connectivity exists to this SPA as the Cornelscourt area drains naturally to Killiney Bay via the Carrickmines/Shanganagh River system, however, given the distances involved and the dilution and dispersal that would occur within the sea this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>Dalkey Island SPA (004172)</b></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p>	<p>c. 6km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the project site and this SPA. The project site does not</p>



<p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>		<p>accommodate habitat that would provide for suitable nesting sites for terns. Terns feed within the marine environment on aquatic species and do not feed in terrestrial sites and as such the project site does not provide for tern foraging habitats.</p> <p>The project site is sufficiently remote (c. 6km) so as to negate disturbance related impacts on tern populations accommodated within the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>North Bull Island SPA (00406)</b></p> <p>Birds: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>	<p>c. 8km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p>

<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Habitats: Wetland and Waterbirds [A999]</p> <p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>		<p>Indirect connectivity exists to this SPA as the Cornelscourt area drains naturally to Killiney Bay via the Carrickmines/Shanganagh River system, however, given the distances involved and the dilution and dispersal that would occur within the sea, this is not considered a viable pathway through which surface water runoff could impact upon the wetlands associated with the SPA.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>
<p><b>Howth Head Coast SPA (004113)</b></p> <p>Birds A188 Kittiwake (<i>Rissa tridactyla</i>)</p> <p><u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species</p>	<p>c. 14km</p>	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p>

listed as Special Conservation Interests for this SPA		
<p><b>Wicklow Mountains SPA (004040)</b></p> <p>[A098] Merlin <i>Falco columbarius</i></p> <p>[A103] Peregrine <i>Falco peregrinus</i></p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	c. 10km	<p>There is no direct source-pathway-receptor between the site and this SPA.</p> <p>There is no direct overlap between the development project site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA has been designated and do not have the potential to affect the conservation objectives of these species. This site is not considered further.</p>

## 12.4. Screening Determination

- 12.4.1. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation

measures have been included in the development proposal specifically because of any potential impact to a European site.

12.4.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses, and distance from European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site 000210 (South Dublin Bay SAC), 000206 (North Dublin Bay SAC), 003000 (Rockabill to Dalkey Island SAC), 004024 (South Dublin Bay and River Tolka Estuary SPA), 004006 (North Bull Island SPA), or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

## **13.0 Environmental Impact Assessment**

### **13.1. Statutory Provisions**

13.1.1. The development provides for the construction of 419 no. Build-to-Rent dwellings (412 apartments and 7 houses) on a site located at Cornelscourt Village, Dublin 18. The site, which is c. 2.15 ha in area, is located within the administrative area of Dun Laoghaire Rathdown (DLR) County Council.

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

i) Construction of more than 500 dwelling units

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

13.1.3. The proposal is on a site area greater than 2 hectares and comprises less than 500 dwelling units. The applicant states that although the proposal is subthreshold, an

'EIAR has been prepared to accompany the subject strategic housing development application to An Bord Pleanála, having regard to the specific characteristics and features of this site, its size, and the quantum of development proposed'.

13.1.4. The EIAR is laid out in three documents. One document comprises the Non-Technical Summary, Volume 1 comprises the Main Document of the EIAR and Volume II comprises the appendices for chapters 7 and 13. Within Volume 1 of the EIAR, Chapter 1 sets out the introduction and methodology, and includes a list of the competent experts involved in preparing the EIAR. Chapter 2 provides a description of the site context and planning history. Chapter 3 establishes the nature and extent of the proposed development, and Chapter 4 includes a consideration of alternatives. Cumulative impacts are addressed within each relevant chapter. Chapter 16 deals with interactions of the factors required to be addressed. Chapter 17 comprises a Summary of Mitigation Measures.

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

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

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

## 13.2. Likely Significant Direct and Indirect Effects

13.2.1. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors

referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

13.2.2. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2001, as amended.

13.2.3. This EIA has had regard to the application documentation, including the EIAR, and the observations received. A number of the environmental issues relevant to this EIA have already been addressed in the Planning Assessment at Section 11.0 of this report. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

### 13.3. **Major Accidents/Disasters**

With respect to Article 3(2), chapter 1 addresses Risk of Major Accidents and/or Disaster. The site is not within the consultation distance for any Seveso sites. I note the site is not in an area prone to natural disasters. Potential for flooding is low and has been addressed in this EIA (and dealt with further below). The design of the proposed development has considered the potential for flooding, road accidents or fire within the design methodology. Potential risks during construction and operational phases are identified. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that the risk of major accident is very low. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself.

### 13.4. **Alternatives**

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

13.4.2. The site is zoned for development, therefore the applicant refers to a number of reasonable alternatives considered on the site with respect to the design and layout of the scheme. In relation to alternative designs, a number of iterations of the proposed development are outlined, including alternatives to that proposed under a previous permission which was refused (ref ABP-306225-19).

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

### 13.5. **Consultations**

13.5.1. A concern is raised in relation to the consultation process. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

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

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

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

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

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

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

13.7.1. Chapter 5 of the EIAR addresses population and human health. The potential effects are considered in the context of socio-economic factors, health and safety and impacts arising from other environmental factors. Potential impacts are considered

under Population and Human Health; Economic Activity and Employment; Childcare/Creche facilities; Primary and Post Primary Schools; Amenities and Open Space; Water.

- 13.7.2. The EIAR provides information on population and employment in the area and also examines social infrastructure in the area. During the construction and operational phases positive socio-economic impacts are expected as a result of employment and other economic activity generated by the development. Potential health and safety impacts are identified due to the nature of construction activities. Potential for impact on social services during the occupation phase is identified due to increased demand. However, any such impacts are not considered to be significant in environmental terms. Impacts arising under other environmental factors (e.g. noise and vibration, air quality dust and climatic factors, landscape and visual impacts and material assets) are considered under the relevant headings of the EIAR.
- 13.7.3. I am satisfied that any negative impacts on population and human health during the construction phase would be short-term in nature and will be mitigated to an acceptable degree by mitigation measures detailed in the EIAR (chapter 5, section 5.6 and section 5.7). Mitigation measures during the construction phase include proposal for a Construction Environmental Management Plan (CEMP). During the operational phase, various mitigation measures are set out, including high-quality landscaping, a comprehensive foul and surface water management system and an overall high-quality design. I consider that the impact of the scheme will be largely positive due to the provision of housing, retail services (café) and employment. Any potential adverse impacts arising will be mitigated to an acceptable level by the measures detailed in the EIAR and would not result in significant impacts.
- 13.7.4. There is potential for cumulative impacts in conjunction with other developments in the area, however, as the impacts from the proposed development would be relatively localised, I am satisfied that significant negative cumulative impacts would not arise.
- 13.7.5. I have considered all of the written submissions made in relation to population and human health. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the



proposed development would not have any unacceptable direct or indirect impacts in terms of population and human health. I am also satisfied that cumulative effects are not likely to arise.

### 13.8. **Biodiversity**

- 13.8.1. Chapter 6 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. A previous baseline ecological assessment carried out at the site on 23<sup>rd</sup> January 2019 by Openfield Ecological Services has been reviewed and updated as part of this application by Biosphere Environmental Services. A site survey was undertaken by Biosphere Environmental Services on 10<sup>th</sup> September 2021. With regard to habitats, consideration was given to the possible presence of habitats listed in Annex I of the EU Habitats Directive. For mammals, the survey focused on signs of their presence, such as tracks, feeding marks and droppings, as well as direct observations. For bats, the main focus was on evaluation of the suitability of habitats to support roosting bats. Bird species were recorded by sight and sound. As the survey was confined to one date, the likely presence in other seasons of bird species of conservation importance was assessed based on habitats present (e.g. winter wetland species such as swans and waders would require wetland habitats, breeding woodland species would require woodland habitats etc.). Potential limitations/data deficiencies are discussed. I am satisfied that the survey work and information contained with the ecological assessment is accurate and robust and the timing of survey work is appropriate.
- 13.8.2. The site is not located within or adjacent to a European site. The site is approx. 3km from Dublin Bay and its associated European sites and 6km from the Rockabill to Dalkey SAC and Dalkey Island SPA. An Appropriate Assessment Screening Report has been submitted with the application, which is assessed under section 10.9 of this report and I refer the Board to that section.
- 13.8.3. With regard to habitats and flora, the main vegetative cover is grassland, described as dry meadow and grassy verges. There is also bare soil, hard standing area (a former temporary car park in the north of the site) and an earthen vegetated bank/berm (recolonising bare ground) exists along the boundary with the N11 and with the AIB property. There are no watercourses within or in the immediate vicinity of the site and there are no habitats on or around the site which are listed on Annex I

of the EU Habitats Directive. At the time of the 2019 baseline survey (by Openfield Ecological Services), a stand of Japanese Knotweed *Fallopia japonica* was recorded at the eastern boundary of the site. Also present on site were two other alien invasive species, three-cornered Garlic *Allium triquetrum* and Spanish Bluebell *Hyacinthoides hispanica*. These species are listed in SI No. 477 of 2011 as alien invasive. It is stated that subsequent to the 2019 reporting of these species, the area had been cordoned off and appropriate measures taken to control and eradicate the species. At the time of the 2021 survey, it is stated that the areas were still cordoned off but there was no evidence of any of the three alien plants being present there or elsewhere on site.

- 13.8.4. With regard to mammals, it is stated that the site does not have suitable habitat to support large mammals such as badger *Meles meles* or otter *Lutra lutra*. The site offers no potential for roosting bats as there are no mature or large trees or suitable buildings. The potential for foraging by bats is also low as there are no hedgerows or treelines on site. The site does not have any habitat suitable, i.e. ponds or large drains, for amphibian species (common frog *Rana temporaria* or smooth newt *Lissotriton vulgaris*).
- 13.8.5. With regard to birds, the site supports a range of small bird species (passerines) similar to gardens and parkland. No bird species of conservation importance, and especially wetland bird species, would be expected within the site given the lack of suitable habitat. In terms of invertebrates, the site does not have potential to support the legally protected and Annex II listed Marsh Fritillary butterfly *Euphydryas aurinia*.
- 13.8.6. Potential for impacts at construction stage on habitats and flora, and on mammals, amphibians and reptiles is considered to be not significant. There is potential for impact on common bird or animal species during the construction phase due to site clearance and removal of habitat, however, subject to appropriate mitigation for nesting birds, this is considered to be not significant.
- 13.8.7. There are no streams or watercourses on the site. The site is proposed to connect into the public surface water and wastewater networks. The potential for impacts on water during the construction and operational phases is considered separately under the environmental factor water. It is noted that an area of the site adjacent to the neighbouring filling station has been impacted by hydrocarbons. Such materials are

classified as, and will be disposed of, as hazardous. This is addressed in the Construction Environmental Management Plan and the main Contractor will be required prepare a Method Statement in relation to the safe removal of the contaminated soils. Drainage from the Cornelscourt site area is to local streams which merge with the Loughlinstown River. As this river flows through the Loughlinstown Wood pNHA, there is a hydrological linkage between the subject site and the pNHA. Without mitigation, contaminated water emanating from the site during the construction and/or operational phases of the development could have an impact on the quality of the river within the pNHA. The effect of the impact would be dependent on the type of contamination and the duration of the event but could be Significant.

13.8.8. Mitigation measures are set out in section 6.7 of chapter 6 of the EIAR. It is stated the construction mitigation measures proposed are considered appropriate in the context of protection of biodiversity and are not required for the protection of downstream designated sites. Mitigation measures include provision that all works involving removal of vegetation will be undertaken outside of the nesting season (1st March to 31st August); further assessment for the presence of invasive species on the site prior to any ground works taking place; measures will be taken to ensure that contaminated water does not leave the site and enter local drains and ultimately local watercourses as per the preliminary construction management plan, including sensitive stripping of topsoil and excavation of subsoil layer, management of suspended solids in run-off, control of concrete run-off, and management of accidental spills and leaks. During the operational phase there is potential for positive impacts due to the implementation of the landscaping scheme.

#### Conclusion – Biodiversity

13.8.9. I am satisfied that the potential for impacts on biodiversity during the construction and operational phases are not significant and that the risks identified will be adequately addressed by the mitigation measures detailed in the EIAR. In terms of cumulative impacts, no cumulative impacts are anticipated, and as such I am satisfied that the issue of cumulative impacts does not arise.

13.8.10. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts on biodiversity would be

avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity.

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

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

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

13.9.2. Geology maps and soil maps are provided. A report assessing soil quality was undertaken, comprising 17 trial pits, 4 pilot holes, gas sampling, soil sample collection, in addition to ground investigations comprising 16 trial pits, 2 foundation pits, 3 infiltration tests, 13 sample boreholes, 12 dynamic probes, 9 cable percussion boreholes, 10 rotary core boreholes, 3 plate bearing tests and 4 groundwater monitoring wells. Ground conditions are described, and comprise a 0.3 m layer of topsoil overlying 0.5 m to 1.1 m of made ground overlying cohesive deposits. The subsoils overlay bedrock. Site testing identified hydrocarbons in the soil adjacent to and arising from the neighbouring filling station.

13.9.3. Infiltration tests were carried out at three locations. All trial pits encountered a stratum of grey sandy gravelly clay beneath a stratum of made ground. Occasional gravel deposits were encountered immediately above the bedrock. This sandy gravelly clay gives reason for the failure of all three of the in-situ infiltration tests, with the soils impermeable and no infiltration recorded. The ground encountered is consistent with Soil Type 4.

13.9.4. The greatest potential for impact on land and soils arises during the construction phase. The construction works would involve stripping of topsoil, excavation for construction of basements, foundations, roads and drainage / utility installations and importation of fill material. Contaminated soils are to be removed from the site and disposed of in a hazardous waste facility. Other materials are to be imported as fill material.

13.9.5. Mitigation measures are proposed to prevent or minimise potential impacts as detailed in Section 7.9 of the EIAR. Likely significant impacts on land and soil are not envisaged subject to the implementation of the mitigation measures outlined in the

EIAR and in the Construction Environmental Management Plan. Mitigation measures are described for the construction phase, and include inter alia: surface water runoff from areas stripped of topsoil will be directed to on-site settlement ponds where measures will be implemented to capture and treat sediment laden runoff prior to discharge of surface water at a controlled rate; subsoil impacted by hydrocarbons which are affected by the proposed development will be removed and a method statement produced in relation to this; vehicle wheel wash facilities to be installed; provision of bunded areas on site to prevent contamination; and dust minimisation plan. It is stated that the potential impacts of the proposed development on soils and the geological environment are neutral/not significant/short-term. During the operational phase, no predicted impacts on the soils and geology of the lands are envisaged. The drainage system proposed will incorporate sustainable urban drainage methods to clean flows prior to discharge. No significant long-term impacts on soil, geology or hydrogeology, resulting from the proposed development are predicted.

13.9.6. No operational phase impacts are envisaged.

13.9.7. In terms of cumulative impacts on land and soil, I would note that there are a number of similar developments permitted or under construction on sites in the vicinity that would carry similar risks. I am satisfied that the risks outlined above can be similarly avoided, managed and mitigated through good construction management practices and that cumulative impacts are not likely to arise.

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

#### 13.10. **Water**

13.10.1. Water is addressed within Chapter 8 of the EIAR. This chapter describes the surface water and groundwater regime, and examines surface water drainage, foul drainage, and water supply.

- 13.10.2. Water services have been described and assessed under the planning assessment in Section 11.13 of this report and are summarised below.
- 13.10.3. The primary hydrological features in the vicinity of the site are the Deansgrange Stream (approx. 650m north-east of the site). The EIAR notes that the area is served by surface water drains (which outfalls to the Deansgrange Stream), by public foul drains and by a public watermain. There are no watercourses in the immediate vicinity of the site. The site is in Flood Zone C and has a low risk of flooding. The water table was encountered at c. 1m (western boundary) to 2.3m (eastern boundary) below existing ground level. GSI data indicates that the site is located on a 'Bedrock Aquifer' with a 'poor' classification. Groundwater vulnerability is classified as 'moderate' with an area of 'High' vulnerability at the southern corner of the site. As noted in chapter 7 of the EIAR, the soils on the site are largely impermeable.
- 13.10.4. During the construction phase likely significant impacts are identified, including potential for contaminants to enter ground and surface water systems. The relatively high water table presents a risk and the EIAR notes that it may be necessary to dewater the excavation area for the basement during construction. The basement level, ground floor levels and external pavement levels designed to follow the natural topography of the site, therefore minimising the need for excavation. The deepest excavations are expected to be required for installation of the attenuation tanks (up to approximately 3.0m below existing ground level). However, any potential impacts can be mitigated through best practice measures. During the operational phase, surface water from the site will discharge, via the public system, to Deansgrange Stream (c. 650 m north of the site) and ultimately to Dublin Bay. Potential risks identified include increased run off rates and accidental leaks. SUDs measures have been designed into the scheme which control surface water discharge and quality. While concerns are raised by observers in relation to the water framework directive and impact of the development on Deansgrange Stream which has an identified poor status, I have no information before me to suggest that the proposed development would impact on the quality of water within the stream given the best practice construction methodologies which are proposed for this site.
- 13.10.5. The water demand is not significant in the context of the overall region.

13.10.6. Proposed foul drainage infrastructure includes provision of a 2,150 m<sup>3</sup> balancing storage tank which will facilitate a potential future upgrade of the Foxrock catchment by Irish Water. Foul drainage flows from the development will be routed via a pump station which is to be incorporated within the balancing storage tank. Stored drainage flows are then returned to a proposed 300 diameter combined sewer which outfalls from the site's eastern corner, towards northern end of Willow Grove and onwards along the verge adjacent to the N11 prior to discharge to the existing foul drainage network (approx. 240m from the eastern corner of the site). An 825mm diameter combined sewer is also to be constructed, traversing the site from the entrance at Old Bray Road to the 2,150 m<sup>3</sup> balancing storage tank (located in the eastern corner of the site). This pipeline and the proposed 300 diameter combined sewer outfall will also facilitate potential future upgrade of the Foxrock catchment by Irish Water. No issues are raised by Irish Water.

13.10.7. Mitigation measures are described in section 8.9 of the EIAR, and include inter alia the preparation of a site-specific Construction and Environment Management Plan (CEMP) which includes measures which will minimise potential impact on the surround water and groundwater environs, such as provision of settlement ponds and use of bunded areas to prevent spillages contaminating surface water discharges, implementation of SUDS measures during the operational phase and provision of min. freeboard (500mm) from 1% AEP as required by GDSDS (mitigation against impact of climate change), amongst other measures. The overall impact following mitigation is considered to be neutral, not significant and short term for the construction phase, and neutral, not significant and permanent for the construction phase.

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

### 13.11. Air Quality and Climate

- 13.11.1. Air and quality climate is addressed in Chapter 10 of the EIAR. The methodology and receiving environment are addressed.
- 13.11.2. The primary sources of potential impacts during construction phase is from dust and construction plant. Existing PM10 and PM2.5 dust particles are assessed and a qualitative assessment of the nature and scale of dust generating construction activities undertaken. Significant PM10 emissions can occur within 10m of the site for a development of this scale and a number of high sensitivity (residential) receptors are located to the direct north, south and east of the site within 10m of the site boundary. None of the road links impacted by the proposed development satisfy the DMRB assessment criteria, therefore construction traffic impacts are neutral, imperceptible and short-term. Traffic on the local road network will not change by 10% or more during construction. Therefore, the potential impact on climate is considered to be imperceptible and short-term. Construction phase impacts can be mitigated through good construction practices, as set out in Section 10.7 of the EIAR, which includes dust management measures. Residual impacts would be negligible in my view and are rated in the EIAR as neutral, short term and imperceptible. In terms of climate there is potential for greenhouse gas emissions associated with the use of construction vehicles etc. but given the scale of the development it is considered that impacts would be negligible.
- 13.11.3. During the operational phase, the main air quality considerations relate to the number of vehicles and traffic related emissions, and indirect GHG emissions as a result of a development must also be considered, which includes emissions associated with energy usage. The predicted concentrations of CO2 for the future years are assessed with slight increases noted, which would not be considered significant. The proposed development is located in an area with a number of alternative sustainable travel options such as Dublin Bus routes and car sharing. Developing in an area with good public transport nodes will help to reduce the requirement for occupants to need personal motor cars and, thus, reduce travel-related GHG emissions. The buildings will comply with Part L Near Zero Building Standards. It is considered that impacts associated with the development would be long-term but imperceptible.



13.11.4. Given the nature and scale of the development proposed, I am satisfied that no cumulative impacts would arise in respect of air and climate during construction and operational phases.

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

### 13.12. **Microclimate – Wind; Daylight and Sunlight**

#### Wind

13.12.1. Chapter 11 of the EIAR addresses wind and microclimate.

13.12.2. The EIAR includes a Wind Assessment prepared by IES consulting. No significant wind impacts are envisaged during construction. Wind impacts for the completed development have been modelled and assessed using Lawsons Criteria to assess safety, pedestrian comfort, standing and sitting criteria. Some ground level spaces and balconies are examined in more detail, ie those exposed to westerly/southwesterly winds, however, where there is some exceedance of the lawson sitting comfort criteria, the differences overall when compared to the standing criteria are stated to be unlikely to have any impact on usability of this private space for personal recreation, with local air speeds equating to a gentle breeze and less than a moderate breeze. Construction phase mitigation is recommended in relation to dust and operational phase mitigation is stated to have been incorporated within the design of the scheme with specific regard to the courtyard shape of Building D and positioning of trees and vegetation along various paths. Overall, microclimate issues raised would not be considered significant in the context of EIA.

#### Daylight and Sunlight

13.12.3. Chapter 17 relates to daylight and sunlight. An assessment of the proposed development on adjacent lands in terms of daylight access has been undertaken. The standards for sunlight and daylight access in buildings follow the British

Standard and BRE Guide. I refer the Board to section 11.10 and 11.11 of this report which addressed in detail the submitted Daylight and Sunlight Assessment.

#### Microclimate Conclusion

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

#### **13.13. Noise and Vibration**

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

13.13.2. Baseline noise monitoring was undertaken across the development and noise sensitive receptors were identified (residential dwellings 10m to the south and east, and commercial bank). Survey results (road traffic and from the neighbouring car wash) date from August 2019 and 3<sup>rd</sup> March 2020, which was pre covid 19 restrictions and therefore traffic levels and associated noise are reflective of pre-pandemic levels. The noise climate at this location is dominated by road traffic noise from the N11 and urban activities, with noise also arising from the neighbouring petrol station car wash.

13.13.3. During the construction phase there is potential for noise and vibration emissions associated with construction plant and activities. Potential for vibration impacts during the construction phase programme are stated to be limited given that rock breaking is not expected and piling is not expected to occur within 35m distance to the nearest noise sensitive property. The impacts would be relatively localised and short-term in nature. These impacts can be mitigated, as set out in Section 9.7 of Chapter 9 of the EIAR and include measures such as, inter alia, selection of plant with low inherent potential for generation of noise and/ or vibration; erection of barriers as necessary around noisy processes and items such as generators heavy mechanical plant or high duty compressors; placing of noisy / vibratory plant as far

away from sensitive properties as permitted by site constraints and the use of vibration isolated support structures where necessary.

13.13.4. During the operational phase no significant outward noise or vibration impacts are envisaged. The potential for inward noise from the N11 to impact on the amenity of future occupants is identified and noise from potential building services. The predicted increase in traffic noise levels, as per the Traffic Impact Assessment associated with the development and increased traffic generation, is less than 1 dB for both the opening and design years, which is rated as imperceptible. An Inward Noise Assessment having regard to PogPG guidance 2017 was undertaken and a noise model of the site was generated. The level of noise risk across the site is rated as medium to high noise risk and therefore an Acoustic Design Strategy has been developed for the site, where mitigation measures, as set out in Section 9.7 of Chapter 9 of the EIAR, will be designed into the building with enhanced acoustic specifications (glazing and ventilation) for identified facades to ensure that internal noise levels are within acceptable limits. Section 9.7.2 provides the minimum sound insulation performance requirements for both glazing and ventilation systems which is stated will be implemented. With regard to building services plant such as heating and cooling plant and extract units, it is noted that the location or type of building services plant has not yet been established, therefore it is stated that it is not possible to calculate noise levels to the surrounding environment, however, they will be designed and located so that there is no significant impact on sensitive receivers within the development itself and the cumulative operational noise level from building services plant at the nearest noise sensitive location within the development (e.g. apartments, etc.) will be designed/attenuated to meet the relevant BS 4142 noise criteria for day and night-time periods. I am satisfied with this approach, which is not unusual at this stage of the design in relation to the specifics of building services, and I am satisfied that commitment to compliance with BS 4142 is reasonable.

13.13.5. I am satisfied that risks arising during the construction and operational phases can be addressed through the mitigation measures outlined in Section 9.7 of the EIAR and that no significant impacts would arise. There are no expected cumulative impacts as a result of the development, when considering adjoining developments permitted and adjoining zoned lands.

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

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

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

13.14.1. Chapter 13 details the Traffic and Transport assessment. The Board is also referred to section 11.12 of the planning assessment above in respect of impacts on traffic and transport and the submitted Traffic and Transport Assessment, which conclude that the development would not have a significant adverse impact on traffic and transport in the area during construction and operational phases.

13.14.2. Potential impacts are described both during construction and operational stages. It is stated that mitigation measures related to construction activities will be implemented in accordance with a Construction Management Plan (CMP) and a Construction Traffic Management Plan (CTMP). Impacts are considered to be temporary and will be minimised.

13.14.3. During the operational phase, TRICS was used to determine trip generation, traffic surveys of junctions were undertaken, and a PICADY model was used to determine the level of capacity at junctions with the development in place. The impact is determined to be minimal on the surrounding roads network, with all junctions operating within capacity at peak times. A Mobility Management Plan is proposed as mitigation during the operational phase to promote sustainable modes of transport. A Car Parking Management Strategy, car sharing spaces for 10 cars, and provision for electric vehicles is also proposed and provision of cycle facilities on site to support less use of private vehicles is provided for. Mitigation in the form of design measures to promote permeability for pedestrians and cyclists to the N11 and Old Bray Road is also incorporated.

13.14.4. Other developments in the area are considered and no cumulative impacts are identified.

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

### **13.15. Material Assets - Utilities**

13.15.1. Chapter 14 of the EIAR evaluates the impacts on material assets required to facilitate the development, including electricity, gas and telecommunications infrastructure. The area of surface water, foul water and water supply are addressed above in the section on water and also in section xxx of the planning assessment above.

13.15.2. During construction, likely significant impacts relate to disruption of services. No construction phase impacts are identified other than increase in demand for services, which can be met, and no identified significant disruption to trunk telecommunication routes is considered likely.

13.15.3. Mitigation measures are proposed, as set out in section 14.9 of the EIAR, to ensure that no damage or service interruption would arise during the construction phase. No significant residual or cumulative impacts are anticipated.

13.15.4. I have considered all of the written submissions made in relation to Material Assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

13.15.5. I have considered all of the written submissions made in relation to Material Assets – Waste Management. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on waste management.

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

- 13.16.1. Chapter 15 of the EIAR addresses archaeology, architectural and cultural heritage.
- 13.16.2. The site has been subject to desktop survey, geophysical survey and trench testing. There are no recorded monuments, protected structures or other cultural heritage designations in or in the immediate vicinity of the site and the site is considered to have low – moderate potential for undiscovered archaeology. On this basis, no direct, indirect or cumulative effects are predicted during the construction or operational phases of the development. Mitigation by way of monitoring of topsoil stripping is recommended. No mitigation for the operational phase is considered necessary.
- 13.16.3. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts on archaeology, architectural or cultural heritage.

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

- 13.17.1. Chapter 12 of the EIAR addresses Landscape and Visual Impact. The EIAR notes the policy context and existing visual character. There are no preserved Views or Prospects in the vicinity of the site. The assessment is broken down into Landscape Character Impact and Visual Impact. The applicant has submitted 3D images and photomontages of the development from 37 viewpoints. I refer the Board to section 11.7 of the planning assessment section of this report.
- 13.17.2. The proposed development would change the character of the site from undeveloped greenfield to urban. The predicted visual impact during the construction phase is examined and during the operational phase. The predicted impact during construction relates primarily to the construction site and compound and will be localised and short-term in nature. The greatest potential for impact arises during the operational phase.

13.17.3. Impacts identified during the operational phase relate to: impact on the perceived character of the area and on social and cultural amenity and predicted visual impact. The LVIA considers that in terms of its effects on landscape character and social and cultural amenity, it will provide moderate positive effects, which will be long term. It is set out in the EIAR that the height along the N11 is consistent with emerging trends on the N11, with a stepping down of the building heights towards the village and the neighbouring residential areas, effective in reducing any tendency to dominate. An assessment of each view is set out in Section 12.8.3, Chapter 12 of the submitted EIAR, with the impact on each view rated in terms of significance of effects.

13.17.4. No cumulative impacts are predicted. No mitigation measures are proposed.

13.17.5. I have considered all of the written submissions made in relation to landscape and visual. I have considered the concerns raised by observers in relation to the opinions that the proposal is incongruent/out of character with existing low scale development in the area and to avoid repetition, I refer the Board to sections 11.7 and 11.11 above. It is clear that the scale of development will be visible in both near and distance views, with the greater impact being on localised views. I note that the proposed development is not within the boundaries or sightlines of any key views or prospects identified in the operative Development Plan. The concerns raised in the CE Report are referred to throughout the planning assessment in Section 11. I have concerns in relation to the visual impacts of Block E and Block D. I am of the opinion that Block E should be omitted for reasons related to its design and scale, with a new application lodged at a future date which addresses the concerns raised. I am also of the opinion that the upper floor of Block D should be omitted for reasons related to visual amenity from the public realm of Old Bray Road. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions which involve the omission of Block E and omission of a floor from Block D. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the landscape or on visual impact.

### 13.18. Significant Interactions

13.18.1. Chapter 16 of the EIAR comprises a matrix of significant interactions between each of the disciplines. A specific section on interactions is included in each of the environmental topic chapters of the EIAR. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

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

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

13.19.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Population: A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- Traffic and Transport: Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of design and implementation of the Car Parking and Mobility Management Strategies for the development.
- Landscape and Visual Impacts: There will be changed views from various locations given the change from a greenfield infill site to a high-density residential development. Concern in relation to the visual impact of Block E and Block D can be mitigated through suitable conditions, which involve the omission of Block E and omission of a floor from Block D. I am satisfied that



the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions. The proposed development would not have a significant negative impact on the landscape.

- Water: Potential impacts on water, which are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- Air Quality and Climate: Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- Noise and Vibration: Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

13.19.2. The proposed development is not likely to have significant adverse effects on human health, biodiversity, land and soil, climate, micro-climate, material assets and archaeological, architectural and cultural heritage. Further it is not likely to increase the risk of natural disaster.

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

## 14.0 Recommendation

I recommend that permission is granted.

## 15.0 Reasons and Considerations

Having regard to the following:

- (a) The policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022,
- (b) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016 and Housing for All – A New Housing Plan for Ireland, 2021,

- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) The Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) The nature, scale and design of the proposed development,
- (j) The availability in the area of a range of social, community and transport infrastructure,
- (k) The pattern of existing and permitted development in the area,
- (l) The planning history of the site and within the area,
- (m) The submissions and observations received, and
- (n) The report of the Chief Executive of Dun Laoghaire Rathdown County Council,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not

seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 16.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 7th day of December 2020 by Declan Brassil and Company on behalf of Cornel Living Ltd.

### **Proposed Development**

The proposed development at Old Bray Road, Cornelscourt, Dublin 18 will consist of:

1. Construction of 419 no. Build to Rent (BTR) residential units comprising: • 412 no. apartment units, consisting of 294 no. one-bed apartments, 111 no. two-bed apartments, and 7 no. three-bed apartment units, arranged in 5 no. Blocks (Buildings A to E) which range in height from 4 no. storeys to 12 no. storeys over a basement/podium level. • 7 no. three-bed, two storey, terraced houses. The proposed residential development will be for long-term rental and will remain owned and operated by an institutional entity for a minimum period of not less than 15 years.
2. Provision of internal communal residential amenities/facilities (totalling approximately 779sqm GFA) to include a concierge (Building A), a range of tenant amenity lounges (across ground and first floor levels Buildings A, B, D and E), a gym (lower ground level Building C) and a single storey multipurpose pavilion building (approximately 88sqm GFA) within the communal courtyard between Buildings A and B.
3. Provision of a retail/café unit (approximately 264sqm GFA) at ground floor level of Block E.

4. Provision of a childcare facility (approximately 258sqm GFA) at ground floor level of Block D with capacity for in the order of 50-60 no. children.
5. Vehicular access to basement level will be via the existing vehicular access point from the Old Bray Road. A total of 237 no. car parking spaces (236 no. at basement level and 1 no. at ground level) together with 2 no. set down spaces and a loading bay, 819 no. bicycle parking spaces (664 no. at basement level and 155 no. at ground level), and 10 motorcycle spaces (all at basement level), are proposed.
6. Provision of an on-site foul drainage pumping station, located in the eastern corner of the site, which is to be integrated within a 2,150m<sup>3</sup> underground balancing storage tank, together with all associated works.
7. Provision of a segregated pedestrian path along the N11, adjacent to the existing cycle lane, which facilitates pedestrian connection from the subject site to the N11/Old Bray Road junction. A cycle connection is also facilitated from the northern corner of the site to the existing cycle lane along the N11. In addition, the proposed development facilitates pedestrian and cycle links to Old Bray Road (Cornelscourt Village) to the south and a potential future pedestrian / cycle link to Willow Grove to the east.
8. All enabling and site development works, landscaping, boundary treatments, lighting, services and connections, waste management, ESB substation, and all other ancillary works above and below ground on a site of approximately 2.15ha.

## **Decision**

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

## **Matters Considered**

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

## Reasons and Considerations

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

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

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

### **Appropriate Assessment Screening**

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

### **Environmental Impact Assessment**

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

- (a) The nature, scale, and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The reports and submissions received from observers and prescribed bodies;
- (d) The Inspector's report;

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

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

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

- Population: A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- Traffic and Transport: Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of design and implementation of the Car Parking and Mobility Management Strategies for the development.

- **Landscape and Visual Impacts:** There will be changed views from various locations given the change from a greenfield infill site to a high-density residential development. Concern in relation to the visual impact of Block E and Block D can be mitigated through suitable conditions, which involve the omission of Block E and omission of a floor from Block D. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions. The proposed development would not have a significant negative impact on the landscape.
- **Water:** Potential impacts on water, which are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- **Air Quality and Climate:** Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- **Noise and Vibration:** Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

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

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

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

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



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

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

## 17.0 Conditions

1.	<p>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 or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
----	--

2.	<p>Mitigation and monitoring measures outlined in the plans and particulars submitted with this application, including in the Environmental Impact Assessment Report, as set out in Chapter 21 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>Prior to the commencement of any development works, the developer shall submit and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, which shall include an assessment of measures taken to date on the site in relation to invasive species and detailed measures for the elimination of any alien invasive plant species from the site.</p> <p><b>Reason:</b> To ensure the eradication from the development site of invasive plant species and to protect biodiversity.</p>
4.	<p>Prior to commencement of any works on site, revised details shall be submitted with regard to the following:</p> <ul style="list-style-type: none"> <li>a. The third floor level of Block D on the southern arm of the block, as shown on drawing COR-HJL-BD-ZZ-DR-A-1052, shall be omitted which results in the omission of apartment numbers D312, D313, D314 and D315.</li> <li>b. Proposed Block E shall be omitted from the proposal. The subject area shall be incorporated into the public open space provision and landscaped accordingly, unless it is subject to a future planning application for development.</li> <li>c. The northern linear open space, located north of the end of Blocks A, B and C and inside the boundary of the site with the N11, shall comprise a pedestrian path through it linking into the pedestrian access to the site from the N11 at the northwest and linking into the pedestrian path around the site to the east.</li> </ul>

	<p>d. The pedestrian gates proposed at the N11 and to the southwest of Block A shall be omitted and all pedestrian access points to the site shall be permanent, open 24 hours a day, with no gates, security barriers or security huts which would prevent pedestrian access.</p> <p>e. Full details of proposed uses within the residential tenant amenity spaces provided, to include inter alia the provision of working from home hubs, laundry facilities, and communal rooms with kitchen facilities.</p> <p>f. Full details of privacy screens between balconies of the apartments.</p> <p>g. Full details of proposed green roofs to all buildings.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
5.	<p>Prior to the commencement of any development on site, full details of the alignment and connection of the proposed 300 diameter foul sewer outfall to the existing public foul drainage infrastructure, shall be submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
6.	<p>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.</p>

	<p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area and in the interest of clarity.</p>
7.	<p>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.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
8.	<p>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, ABP-310860-21 Inspector's Report Page 198 of 207 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.</p> <p><b>Reason:</b> In the interests of orderly development and clarity.</p>
9.	<p>Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).</p> <p><b>Reason:</b> To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.</p>
10.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for</p>

	<p>determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
11.	<p>No additional development shall take place above roof parapet level of the shared accommodation buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.</p>
12.	<p>Proposals for a development name, creche/commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
13.	<p>(a) Details of the proposed signage to the childcare facility to be submitted prior to occupation for the written agreement of the planning authority.</p> <p>(b) The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of the development and the wider community on a first come first served basis.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
14.	<p>Detailed noise mitigation measures relating to the glazing and ventilation systems of the proposed blocks, as set out in the EIAR, shall be submitted to, and agreed in writing with, the planning authority prior to</p>

	<p>commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
15.	<p>All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
16.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p><b>Reason:</b> In the interest of public safety and visual amenity.</p>
17.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
18.	<p>(a) Details of the bicycle parking space location, layout, access to the basement, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p>(b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.</p>

	<p><b>Reason:</b> To ensure that adequate bicycle parking provision is available to serve the proposed development, and in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.</p>
19.	<p>Revised drawings and details demonstrating that all items raised in the submitted Stage 1 Quality Audit (dated September 2021) have been adequately addressed shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
20.	<p>A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out at the Developers expense in accordance with the Design Manual for Urban Roads &amp; Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent audit team(s) shall be approved in writing by the Planning Authority and all measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
21.	<p>The developer shall comply with all requirements of the planning authority in relation to the following, in particular:</p> <p>(a) All works to be carried out on the public road/footpath, and areas to be taken in charge. The internal street network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, vehicular entrances and basement car park shall be in accordance with the detailed construction</p>

	<p>standards of the planning authority for such works and design standards outlined in DMURS.</p> <p>(b) Provision for cyclists shall comply with latest National Cycle Manual and Design Manual for Urban Roads Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended.</p> <p>(c) Full details of the proposed cycle and pedestrian pathway to be carried out at the developer's expense along the N11 shall be submitted for the written agreement of the planning authority. The proposed cycle path and any other cycle paths proposed shall be in accordance with the National Cycle Manual;</p> <p>(d) Details of pedestrian crossing facilities proposed.</p> <p>In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
22.	<p>(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development.</p> <p>(b) Prior to the occupation of the development, a Car and Cycle Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed residential units and also to prevent inappropriate commuter parking.</p>



23.	<p>A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
24.	<p>Prior to the opening or occupation of the development, a detailed Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
25.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p>

	<b>Reason:</b> In the interest of public health and surface water management.
26.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
27.	<p>Prior to the commencement of development, the developer shall engage the services of a qualified arborist as an arboricultural consultant for the entire period of construction activity. To ensure the protection of trees to be retained adjoining the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted Arboricultural Report. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations (or as updated). The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st September and the end of February inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000.</p> <p><b>Reason:</b> To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.</p>
28.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> <li>(a) details in relation to planting along the eastern boundary to ensure no blocking of light to existing dwellings;</li> <li>(b) details in relation to layout and design of play facilities and equipment across the scheme, in addition to the relocation of the play space within the southeastern open space away from the eastern and southern boundaries;</li> <li>(c) details of play facilities between Blocks A and B and between Blocks B and C, where required;</li> </ul>

	<p>(d) details in relation to public furniture/benches;</p> <p>(e) proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;</p> <p>(f) details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of amenity, ecology and sustainable development.</p>
29.	<p>a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained and may be affected by the development shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other</p>

	<p>substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) proposed to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site, unless by prior agreement with a specialist arborist.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity.</p>
30.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
31.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site to be retained and to make good any damage caused during the construction period,</p>

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

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

	<p>other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
37.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
38.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with</p>

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

---

Una O'Neill  
Senior Planning Inspector

30<sup>th</sup> March 2022