



An  
Bord  
Pleanála

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

## Inspector's Report ABP-312170-21

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### Strategic Housing Development

531 no. Build to Rent apartments,  
creche, cafe and associated site  
works.

### Location

Marmalade Lane, Wyckham Avenue,  
Dundrum, Dublin 16.  
([www.marmaladelaneshd2.ie](http://www.marmaladelaneshd2.ie))

### Planning Authority

Dun Laoghaire Rathdown County  
Council

### Applicant

1 Wyckham Land Limited

### Prescribed Bodies

An Taisce  
Irish Water  
Transport Infrastructure Ireland

**Observer(s)**

Inland Fisheries Ireland  
Adrienne Coen  
Al Comer Crowley and Others  
Alison Kennedy  
Allen Morgan  
Andrew Kelly  
Andrew McKiernan  
Anne Shanahan  
Balally Residents Association  
Bill and Vivienne Cosgrave  
Breda McCaffrey  
Brian Byrne  
Carmel Doherty  
Carol Eggers  
Catherine and Michael Tighe  
Christina Lynam  
Ciaran Callan  
D. Roome  
David and Hilary Robinson  
Deirdre Quinn  
Desmond and Elizabeth Gillmor  
Donal O'Connell  
Eileen Hickey  
Eithne Dunford  
Elaine, Patricia and Anthony Hyland  
Ellen Butler  
Emma Hughes  
Emma Kennedy  
Fiona and Ray Snowdon  
Goretti Molloy

Jacinta Byrne  
James Walsh  
Jamie Symmons  
Jenny Keane  
Jim O'Leary  
Joan Maguire  
John and Ita MacDonald  
John Gerrard  
John Hugh Colleran  
John Molloy  
Julie Swan  
Karen Symmons  
Killian O Beirne  
Liam and Josephine Kavanagh  
Liam and Liz McLoughlin  
Liam and Margaret Casey  
Lucy Murray  
Majella O'Neill  
Marguerite Thornton  
Mark Browne  
Mark Johnson  
Mary Fahy  
Mary Keating  
Matthew Kirrane  
Mona Tyndall  
Nicola Flanagan  
Olive and Pdraic Mullen  
Olive Cummins and Patrick Hand  
Pdraig Ryan

Parkvale and Ballyolaf Residents  
Association  
Pat and Lyn O'Doherty  
Patrick and Damhnait Farrell  
Patrick J O'Mahony  
Paul and Jennifer Victory  
Paul and Margaret Colgan  
Paul and Sally Elliot  
Paul O'Connor and Niamh Banim  
Peter and Angela Comerford  
Peter Grennan  
Philip Harvey  
Rachel Brien  
Raphael King  
Residents WBC Company Limited  
Richard Morris  
Robert and Jennifer Sloane  
Robert Owens  
Ruth and Brendan Delany  
Ruth Price  
Sean O'Cathain  
Thomas and Yvonne Sheerin  
Thomas Ed McNulty  
Tony and Aileen O'Connor  
Vincent and Anne Marie Cunningham  
William and Sally Campbell

**Date of Site Inspection**

24<sup>th</sup> February 2022

**Inspector**

Elaine Power

## Contents

1.0	Introduction .....	7
2.0	Site Location and Description.....	7
3.0	Proposed Strategic Housing Development .....	8
4.0	Planning History.....	10
5.0	Section 5 Pre Application Consultation .....	11
6.0	Relevant Planning Policy .....	16
7.0	Third Party Submissions.....	30
8.0	Planning Authority Submission.....	36
9.0	Prescribed Bodies.....	45
10.0	Assessment .....	47
11.0	Environmental Impact Assessment (EIA) .....	122
12.0	Appropriate Assessment .....	143
13.0	Recommendation.....	153
14.0	Reasons and Considerations.....	153
15.0	Recommended Order.....	154
16.0	Conditions.....	160

## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1.1. The site is located in Dundrum, c. 230m east of Wyckham Way (public road) to the rear of the Carmelite Order complex and c. 750m south of Dundrum Town Centre and c. 1km south of Dundrum Village. Access to the site from an existing private road (Wyckham Avenue) that currently provides access to the Carmelite Centre, Wyckham Point and Wyckham Place apartment developments, the Walled Garden apartment development (currently under construction) and 3 no. dwellings.
- 2.1.2. The site is currently vacant and was previously in use agricultural field. It originally formed part of lands within the ownership of the Carmelite Order. However, it was fenced off, and was never formally landscaped as part of the attendant grounds of the main complex of buildings.
- 2.1.3. The site has a stated area of c. 4.2ha, including the access road (Wyckham Avenue) and a portion of Ballawley Park, which are included in the redline boundary. The site is locally elevated with a c. 7m difference between Wyckham Way and the western boundary of the site. Within the site the lands are undulating, they generally fall from the southern boundary towards its north east corner, and ground levels vary across the site by c. 10m with the lowest point on the northern boundary and the highest point at the eastern boundary with Ballawley Park. The boundaries of the site are delineated by modern post and rail fencing with some planting. There are no built structures on the site. There is some recent felling of mature trees evident on the site.
- 2.1.4. The wider area is in transition. The uses in the immediate vicinity are primarily residential, educational, institutional and recreational. To the south and east the site is bound by traditional low density two-storey residential housing estates at Parkvale and Wesley Lawns and Wesley Heights and by Ballawley public park, to the north the

site is bound by St. Tiernan's Community School and to the east the site is bound by apartment developments ranging in height from 5-8 storeys.

- 2.1.5. Permission was granted (ABP 308157-20) in 2021 for a 466 no. Build to Rent apartments scheme with a childcare facility and café unit on the subject site.

### **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development comprises a 'Build to Rent' (BTR) residential scheme consisting 531 no. apartments in 5 no. blocks (A – E) ranging in height from 3 - 10 storeys. There is a partial over basement / lower ground floor level located under Blocks A and B in the northern portion of the site.

- 3.2. The apartments comprise 28 no. studios, 297 no. 1 -beds, 197 no. 2-beds and 9 no. 3-beds. All residential units are provided with private balconies / terraces. The scheme includes c.1,488sqm of internal residential amenity space, consisting of reception lobby and residents lounge, meeting / leasing room, parcels / delivery area, event spaces, co-working spaces, resident store areas, outdoor cinema, screening room, 'chef's kitchen' and private dining area, prep kitchen, yoga studio, gym, changing room & WCs, pet washing, roof top garden allotment, management offices, maintenance office, store areas, staff breakroom and staff shower rooms.

- 3.3. The development also includes a c.438sqm creche and a 97sqm cafe unit. The provision of 171 no. car parking spaces, 1,012 no. cycle parking spaces and 26 no. motorcycle spaces. Vehicular / pedestrian / cyclist access is from Wyckham Avenue and the works include improvements to the existing Carmelite Centre access road and entrance. Additional pedestrian accesses from Ballawley Park, Wesley Lawns and St. Tiernan's Community School are also proposed. All associated site development works, open spaces, roof gardens, landscaping, boundary treatments, plant areas, waste management areas, cycle parking areas, and services provision, including ESB substations.

- 3.4. The application included the following:

- Planning Report, including Statement of Consistency, Material Contravention Statement and Response to An Bord Pleanála Opinion



- Local Authority Opinion Summary
- Masterplan
- Architectural Design Statement
- Housing Quality Assessment
- Appropriate Assessment Screening
- Natura Impact Statement
- Environmental Impact Assessment Report Volume 1: Main Statement
- Environmental Impact Assessment Report Volume 2: Appendices
- Environmental Impact Assessment Report Volume 3: Non-Technical Summary
- Engineering Planning Report
- Stage 1 Surface Water Audit
- Site Specific Flood Risk Assessment
- Wind Microclimate Study
- Daylight, Shadow and Sunlight Impact Report
- Landscape Design Statement
- Arboricultural Report
- Car Parking Management Plan
- Traffic and Transport Assessment
- DMURS Compliance Statement
- Mobility Management Plan
- Quality Audit
- Building Lifecycle Report
- General Water and Recycling Management Plan
- Construction and Demolition Waste Management Plan
- Outline Construction and Demolition Waste Management Plan
- Construction and Environmental Management
- Outline Construction Management Plan

- Build to Rent Demand, Operations and Resident Amenity Overview
- Section 47 agreement
- Building Regulations Technical Guidance Document
- Photomontages

## 4.0 Planning History

### ***Subject Site***

- ***ABP 308157-20 Strategic Housing Application:*** Permission was granted in 2021 for a Build to Rent development with a childcare facility. The application was for the construction of 628 no. Build to Rent apartments in 7 no. blocks. The conditions attached provided for a development of 466 no. apartments in 5 no. blocks. (Decision is currently subject to Judicial Review).

### ***Surrounding Sites***

- ***ABP 304590-19 Strategic Housing Application:*** Permission was granted in 2019 for the construction of 116 no. apartments in 4 no. blocks with a maximum height of 5 storeys at the Walled Garden, Gort Mhuire located to the north east of the subject site. ***ABP 307545-20 Strategic Housing Application:*** Permission was granted for modifications to ABP-304590-19 to provide an additional storey to each of the 4 no. blocks to provide an additional 26 no. apartments. The overall height of the development permitted is 6 storeys.
- ***ABP 311287-21 Strategic Housing Application:*** Permission was granted in 2021 for the demolition of No. 97A Highfield Park, Frankfort Lodge and extensions to Frankfort Castle and the construction of a residential scheme comprising 115 no. units and a creche in 4 no. blocks with a maximum height of 5 no. storey at Old Frankfort c. 2km north of the subject site.
- ***ABP 310138-21 Strategic Housing Application:*** Permission was granted in 2021 for the demolition of existing buildings and structures on site and the construction of 231 no. apartments and a childcare facility in 5 no. blocks with a maximum height of 10 no. storeys at Mount Saint Mary's and Joseph's Dundrum Road, c. 3km north of the subject site.

- **ABP-309553-21 Strategic Housing Application:** Permission was refused in 2021 of the demolition of some structures on site and the construction of 299 no. apartments and a childcare facility at The Goat Bar and Grill, Lower Kilmacud Road, c. 1.5km north east of the subject site. The reason for refusal considered that the proposed development failed to meet the criteria set out in Section 3.2 of the Building Height Guidelines.
- **ABP 309430-21 Strategic Housing Application:** Permission was granted in 2021 for 698 no. student bedspace accommodation in 8 no. blocks with a maximum height of 7 storeys at Our Lady's Grove c. 2km north east of the subject site.
- **ABP-308353-20 Strategic Housing Application:** Permission was granted in 2021 for the demolition of an existing building and hard surface parking area and the construction of 239 no. student bedspaces with amenity spaces, bicycle and car parking spaces and all associated site works on a site (Vector Motors) located c. 2km north east of the subject site.
- **ABP 304469-19 - Strategic Housing Application:** Permission was granted in 2019 for the demolition of 2 no. houses and the construction of 253 no. apartments and a 236sqm creche, in 3 no. blocks ranging in height from 4-6 storeys. **ABP 307683-20 Strategic Housing Application:** Permission was granted in 2020 for the provision of 54 no. additional apartments on previously permitted development of 253 no. apartments under ABP-304469-19, with a maximum height of 8 storeys.
- **PL06D.245456 Reg. Ref. D15A/0405:** Permission was granted for the construction of 114 no. units at Herbert Hill, Sandyford Road c. 700m north of the subject site. **PL06D.248343 Reg. Ref. 17A/0071:** Permission was granted in 2016 for amendments to PL06D.245456 for a new 7<sup>th</sup> floor level and 7 no. apartments.
- **ABP303041-18, Reg. Ref. D18A/0865:** Permission was granted in 2019 for a 2-storey primary school located to the north of the subject site.

## 5.0 Section 5 Pre-Application Consultation

- 5.1. A Section 5 pre-application virtual consultation took place on the 20<sup>th</sup> September 2021 in respect of a development of 574 no. Build to Rent apartments. Representatives of

the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Principle / Planning History
- Design and Conservation
- Residential Standards
- Existing Residential Amenity
- Transport
- Trees / Environment Screening
- Site Services / Flood Risk

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 29<sup>th</sup> November 2021 (ABP-310751-21) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

**Scale and Massing:** Further consideration / justification of the documents as they relate to the scale, form, and visual impact of the proposed buildings, in particular Block B. The further consideration / justification should address the proposed scale and massing of the proposed blocks and the potential visual impact of same from surrounding residential areas. The further consideration of these issues may require an amendment to the documents and / or design proposals submitted.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. In accordance with section 5(5)(b) of the Act of 2016, as amended, any application made on foot of this opinion should be accompanied by a statement that in the prospective applicant's opinion the proposal is consistent with the relevant objectives of the development plan for the area. Such statement should have regard to the development plan or local area plan in place or, likely to be in place, at the date of the decision of the Board in respect of any application for permission under section 4 of the Act. In this regard the

implications of the likely adoption of the Dun Laoghaire-Rathdown Development Plan 2022-2028 on the acceptability, or otherwise, of all aspects of the proposed development should be clearly set out in the submitted documentation.

2. Justification, and where appropriate amendment, to demonstrate that the proposed car parking quantity is appropriate, having regard to local, regional and national policy on same. To this end, matters raised in at the Tri-Partite Meeting and as set out in the Planning Authority's submission on this proposal, including that as set out within the Transportation report should be addressed in any report/justification relating to the outlined transport issues.
3. A Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
4. Justification, and where appropriate amendment, to demonstrate that the proposed residential amenities and residential support facilities are sufficient to serve the proposed development, in accordance with SPPR 7 of the Apartment Guidelines.
5. A Housing Quality Assessment (HQA) which provides the specific information regarding the proposed apartments units as required by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020). The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements. In relation to same, the concerns raised by the Planning Authority in relation to the quantum and nature of the proposed dual aspect units should be addressed in any application.
6. Additional CGIs/visualisations/3D modelling including visuals showing the relationship between the proposed development and the Protected Structures on the site, including the Water Tower.

7. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of external finishes, the treatment of balconies and boundary treatments. In this regard, the location of the screening for a number of the ground floor units appears to be outside the redline boundary of the site and the applicant should address same in the application documentation.
8. Drainage details such as would clearly address and respond to comments within the internal report from the Drainage Division of the Planning Authority, namely additional details as relates to surface water proposals and additional details as relates to Flood Risk.
9. All supporting technical/environmental reports to be updated as required.
10. A plan of the proposed open spaces within the site clearly delineating public, communal and private spaces, and the relevant zoning objective that pertains to each area of open space. Additional details of tree protection measures are also required, specifically in relation to those trees to be retained on the northern boundary of the site.
11. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
12. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format. The notice and statement should clearly indicate which Planning Authority statutory plan it is proposed to materially contravene.

5.4. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs

- An Taisce
- Heritage Council
- Transport Infrastructure Ireland
- National Transport Authority
- Dún Laoghaire Rathdown County Childcare Committee

## 5.5. ***Applicant's Statement***

5.5.1. A statement of response to the Pre-Application Consultation Opinion was submitted as part of the Planning Report with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the item that required further consideration and items 1-12 of the specific information to be submitted with the application. Items of note are summarised below: -

***Scale and Mass:*** This scheme can create its own context. The layout and design provides increased building height away from the boundaries with existing residential developments. The location of the taller buildings also creates an enclosure to the arrival's courtyard, marking this area as a key nodal space within the site. It also provides a transition from the taller urban scaled developments that begin with the adjacent Walled Garden and continue with other apartment development towards Dundrum Town Centre. While the proposed highest building (10 storeys) is a storey higher than that previously permitted on the site, it is a similar height in meters to that previously permitted due to better use of existing ground levels within the current design. The buildings are, therefore, all of very similar height, scale and in a similar location to the permitted development as is demonstrated by the verified views. However, it is worth noting that the proposed buildings have been set further away from the Gort Muire buildings. Also the new Block B design and orientation will further reduce any potential visual impact on the Parkvale residential estate to the east compared to the permitted scheme.

5.5.2. The applicant also addressed items 1-12 of the specific information to be submitted with the application. Items of note are outlined below: -

1. A Statement of Consistency was submitted as part of the Planning Report.

2. A Traffic and Transport Assessment, a Mobility Management Plan and a Car Parking Management Plan have been submitted which justify the proposed level of car parking.
3. A Daylight, Shadow and Sunlight Impact Report has been submitted.
4. A Demand, Operations and Resident Amenity Overview report was submitted which justifies the residential amenity and support facilities for the proposed development.
5. A Housing Quality Assessment (HQA) was submitted.
6. Additional CGIs/visualisations/3D modelling have been submitted.
7. Section 12 of the Architectural Design Statement details the proposed materials and finishes.
8. Drainage details such as would clearly address and respond to comments within the internal report from the Drainage Division of the Planning Authority, namely additional details as relates to surface water proposals and additional details as relates to Flood Risk.

A “Local Authority Opinion Summary Response” has been submitted which addresses each of the engineering aspects raised by Dun Laoghaire Rathdown County Council in their Opinion document for the tri-partite meeting. An Engineering Planning Report, a Site Specific Flood Risk Assessment and a Stage 1 Surface Water Audit have also been submitted.

9. All of the reports, supporting technical data and appropriate environmental reports have been updated accordingly.
10. Drawing number L1-700 provides the Open Space Calculations.
11. It is not proposed that the development would be taken in charge.
12. A Material Contravention Statement has been submitted.

## 6.0 **Relevant Planning Policy**

### 6.1. ***Dun Laoghaire Rathdown County Development Plan 2016-2022***

The subject site is zoned ‘Objective A’ which seeks to ‘*protect and/or improve residential amenity*’.



The site is subject to the specific local objective 'INST' which seeks '*to protect and / or improve Institutional use in open lands*'.

There is also an objective on site to protect and preserve trees and woodlands. Two tree symbols located on the site, one to the eastern boundary and one to the western boundary of the subject site.

The 'Gort Muire Centre' (RPS No. 1453) is listed in the Record of Protected Structures in Appendix 4 of the Plan and is described as 'water gardens, garden walls and farm building complex, house, ornamental ironwork, conservatory and water tower'. The description refers to the overall Carmelite complex. The complex is outside of the site as outlined in red.

Chapter 2 of the Plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units. Dundrum is designated a Major Centre in the Metropolitan Area in the Core Strategy Figure 1.1. The site is also included in Figure 1.3 as part of the 410 ha of serviced land which are to yield 18,000 residential units. It is further noted in section 1.2.5.1 that "*in addition to the major parcels of zoned development land detailed above, the ongoing incremental infill and densification of the existing urban area will generate, over time and on a cumulative basis, relatively significant house numbers*". It is stated that a new Local Area Plan is to be prepared for Dundrum during the life of the County Plan. The site is located a short distance outside the indicative map for the Local Area Plan.

**Policy RES5:** '*Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.*'

**Section 2.1.3.5 Institutional Lands:** ... '*Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained. A minimum open space provision of 25% of the total site area (or a population based*

*provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8). In the development of such lands, average net densities should be in the region of 35 - 50 units p/ha. In certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. In cases of rationalisation of an existing institutional use, as opposed to the complete cessation of that use, the possible need for the future provision of additional facilities related to the residual retained institutional use retained on site may require to be taken into account. (This particularly applies to schools where a portion of the site has been disposed of but a school use remains on the residual part of the site.)'*

**Policy UD6: Building Height Strategy:** - *It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.*

**Section 8.2.3.4 (xi) Institutional Lands:** *'Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained...In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites... A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site...In addition to the provision of adequate open space, on Institutional Lands where existing school uses will be retained, any proposed residential development shall have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion/ redevelopment.'*

**Section 8.2.8.2 'Public / Communal Open Space:** *For all developments with a residential component – 5+ units - the requirement of 15sqm 20sqm of Open Space per person shall apply based on the number of residential/housing units... A lower*

*quantity of open space (below 20sqm per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii) below’.*

**Section 8.2.8.6 Tree and Hedgerows:** *‘New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps...’*

Section 8.2.3.3 Apartment Development is also considered relevant.

The following are also considered to be relevant. Chapter 2: Sustainable Communities, Chapter 5: Physical Infrastructure Strategy Chapter 8: Principles of Development and Appendix 9: Building Height Strategy, Policy UD1: Urban Design Principles, Policy UD2: Design Statements, Policy UD3: Public Realm Design and Section 8.2.3: Residential Development are also considered relevant.

## 6.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people’s quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located with the ‘Dublin Metropolitan Area’. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, 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 followings RPOs are of particular relevance:

**RPO 5.4:** Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

**RPO 5.5:** Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

### 6.3. ***National Planning Framework***

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

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 6.4. ***Section 28 Ministerial Guidelines***

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

#### 6.5. ***Applicants Statement of Consistency***

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

#### 6.6. ***Material Contravention Statement***

6.7. The applicant submitted a Material Contravention Statement as part of the Planning Report. The statement provides a justification for the material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 - 2022 in relation to the sites 'INST' Objective; Car Parking; Building Height; and Quantitative Apartment Standards. The applicant also addressed any potential material contraventions of the Draft Dun Laoghaire Rathdown County Development Plan 2022 – 2027. However, as this plan is currently a draft and the current development plan is the statutory plan, the potential material contraventions of the draft are not considered relevant at this time. The statement is summarised below: -

#### 6.8. ***INST Objective***

##### 6.8.1. *Open Space and Tree Protection*

Sections 2.1.3.5 and 8.2.3.4(xi) of the development plan require a minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) on Institutional Lands. Section 8.2.8.2 states that for all developments with a residential component of 5+ units there is a requirement of 15sqm - 20 sqm of Open Space per person based on

a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.

The open space requirement for this development under the Institutional Land designation would be between 1.2ha (15sqm per person) and 1.6ha (20 sqm per person). A large public park at the eastern side of the development is proposed which is c. 1.2 ha and is greater than 25% of the site area. The gross provision of public and communal open space equates to c. 1.9ha.

Notwithstanding this, it is noted that the open space requirement under the Institutional Land designation, as detailed in Sections 2.1.3.5 and 8.2.3.4(xi) of the Development Plan, refers to the “total site area”. The overall site area of the lands subject to the Institutional Lands designation is c.5.4ha. The adjacent Carmelite centre includes extensive formal and natural landscaped grounds extending to over 1ha in extent. When added to the gross open space provision proposed in the subject site (c.1.9 ha) the total provision across the Institutional Designation lands will be c.2.9ha. This represents over 54% of the overall lands as landscaped open space.

The proposed level of open space would ensure that the “open character” of the institutional lands would be maintained as required by the Development Plan along with the retention of a significant number of trees and natural boundaries.

Furthermore, the development would for the first time make the development lands and the new public spaces fully open to the public which is a significant planning gain given that the existing institutional lands are in private ownership and provide no direct recreational or amenity benefits to the wider area.

It is considered that proposed development does not materially contravene the development plan in relation to the provision of open space on lands subject to ‘INST’ objective.

#### 6.8.2. *Density*

Policy RES5 and Section 2.1.3.5 state that average net densities should be in the region of 35 - 50 uph on lands subject to the Institutional Land designation. In certain instances, higher densities will be allowed where it is demonstrated that they can

contribute towards the objective of retaining the open character and/or recreational amenities of the lands.

Policy RES3 states that it is 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. The policy further states where a site is located within c. 1 km of a 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 km of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.

The gross density of this site is 126.62uph, while the net density is c.179uph. Considered against Policy RES5 in isolation the proposed density could be considered a material contravention of the development plan. However, RES3 identifies the need for higher densities in sites that are close to a LUAS line, Bus Corridor or within 1km of a Town centre such as this site. This approach is reflected in the Draft Development Plan 2022 – 2028 in policy PHP18. This aligns with the Apartments Guidelines and the definition of Central and/or Accessible Urban Location's having regard to its proximity to the Luas, bus services, and Dundrum Town Centre, which is the main retail and employment centre in the area.

Policy RES5 allows for higher density where a development contributes towards the objective of retaining the open character and/or recreational amenities of the lands. As noted above, significant public open space is proposed as part of this development which will ensure the "open character" of the lands is achieved.

### 6.8.3. *Masterplan*

8.2.3.4(xi) states that in order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. The application is accompanied by a Masterplan which addresses the entire site including the Gort Muire Lands which are outside the control of the applicant but subject to the INST designation. Whilst this masterplan has been agreed with the Carmelite Order it has not been agreed with DLRCC. On the basis of a strict

interpretation of 8.2.3.4(xi) the submitted Masterplan may be considered a Material Contravention.

## 6.9. ***Car Parking***

Table 8.2.3 provides the Residential Land Use – Car Parking Standards. These requirements are considered “standard” parking provision as opposed to a “maximum”. For apartments there is a requirement for 1 no. space per 1-bed unit, 1.5 no. spaces per 2-bed unit and 2 no. spaces per 3-bed unit + (depending on design and location).

Section 8.2.4.5 notes that the principal objective of the application of car parking standards is to ensure that appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel. Reduced car parking standards for any development may be acceptable dependant on a number of criteria including location; proximity to public transport; nature and characteristics of the proposed development; mix of land uses within and surrounding; availability of on-street parking controls; implementation of a Travel Plan; Other agreed special circumstances... In very limited circumstances, the Council may also consider the development of car-free housing on suitable small-scale sites which have with high levels of public transport accessibility, have convenient and safe access to local shops and community facilities and/or are located very close to Town Centres.

Policy ST3 states that it is Council policy to promote, facilitate and co-operate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region. Effecting a modal shift from the private car to more sustainable modes of transport will be paramount objective to be realised in the implementation of this policy.

It is considered that there is a conflict between table 8.2.45 of “standard” provision and Section 8.2.4.5, the supporting text in of the development plan.

The objective for having a “standard” requirement for residential parking, would require this development to provide over 638.5 no. car parking spaces, is in conflict with Policy ST3 which aims to achieve a modal shift away from private cars. In addition, Section 8.2.4.5 requires a reduced car parking standards for any development that is close to



a Town Centre, in proximity of public transport, the nature of the development, the mix of uses in the surrounding area, the availability of parking controls and the potential to implement a Travel Plan. All of which can be achieved on this site. It appears that the rigid application of Table 8.2.3 does not take into account the circumstances of the site and the circumstances where reduced car parking may be appropriate.

It is contended that the proposed development is a high sustainable, strategic housing development, which complies with the principles for reduced car parking outlined in the National Planning Framework and the Apartments Guidelines for sites such as this which can be considered a Central and/ or Accessible Urban Location, and therefore the Board may grant permission under Section 5(6) of the 2016 Act.

#### 6.10. ***Building Height***

Policy UD6 states that the recommendations and guidance set out within the Building Height Strategy for the County (Appendix 9 of the Development Plan) will be adhered to. Whilst the county is generally low-rise (2-3 storeys) the Strategy acknowledges that there are areas where greater height has been achieved.

Appendix 9 Building Height Strategy states that for new developments in suburban areas not currently designated by an LAP, SDZ or similar non-statutory plan, then the maximum height range is 3 - 4 storeys at 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. The Strategy also acknowledges that minor modification upwards in height (i.e. 1-2 storeys) may be considered in suitable locations on a case by case basis having regard to context, topography, urban design, character, planning gain, accessibility to public transport, site size, etc.

The proposed height of the scheme at up to 10 storeys would be in excess of the Building Height Limit of 3-6 storeys (allowing for the additional “upward modifier”) and would, therefore, be a material contravention of the development plan. Notwithstanding this, heights in the wider area already exist that contravene the current Development Plan – for example, the Wyckham Point development directly adjacent which is up to 8 storeys in height.

## 6.11. **Quantitative Apartment Standards.**

### 6.11.1. *Unit Mix*

Section 8.2.3.3 (iii) notes that apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80sqm. The proposed development has 531 units in total with a mix of 28 no. studios, 297 no. 1 bed units, 197 no. 2 bed units and 9 no. 3 bed units. There are 61% studio and 1 bed units proposed as part of the development. This is contrary to the mix in the development plan. However, it accords with the standards for BTR within SPPR8 of the Apartment Guidelines

### 6.11.2. *Internal Storage*

Section 8.2.3.3 (v) of the development plan requires 3sqm for 1-bed units, 7sqm for 2-bed units and 9sqm for 3-bed units. Each Studio and 1 bed unit has a minimum of 3sqm of internal storage space, each 2 bed unit has a minimum of 6sqm internal storage space, and each 3 bed unit has a minimum of 9sqm of internal storage space, which is in accordance with the standards set out in the Apartment Guidelines. However, in some instances the storage space for the 2-bed units (minimum 6sqm) falls below the development plan requirement of 7sqm.

### 6.11.3. *Minimum Apartment Floor Area*

Section 8.2.3.3 (vii) of the development plan requires that all apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas. Table 8.2.2. requires a minimum floor area of 55sqm for a 1-bed unit, 85sqm – 90sqm for a 2-bed unit and 100sqm for a 3-bed unit. The areas listed are minimum standards and should not be taken as the norm for all developments. Higher floor areas will be encouraged throughout the County. The floor areas are all in accordance with the Apartment Guidelines, however, they are contrary to the development plan standards.

#### 6.11.4. *Private open space*

Section 8.2.3.3 (viii) states that each apartment shall have direct (balcony) access to its own minimum area of private open space in the form of a balcony or patio area. Table 8.2.5 sets out minimum standards of 6sqm for a 1-bed unit, 8 sqm for a 2-bed unit, 10sqm for a 3-bed unit and 12sqm for a 4+ bed unit.

Section 8.2.8.4 (iv) states that Apartment developments should be of high quality design and site layout having due regard to the character and amenities of the surroundings. Every apartment shall have direct access to its own area of private open space in the form of a balcony, winter garden or patio area.

The minimum depth of balconies for all or most of their length should normally be 1.5m and be accessed from living rooms. Larger balconies should be assessed in terms of overshadowing of other units and other visual impacts. Above ground floor units shall also have access to semi-private/communal and other open amenity spaces. No balconies shall overhang the public footpath.

Each apartment has a private balcony or terrace which are in accordance with the Apartment Guidelines, however, they are contrary to the development plan standards.

#### 6.11.5. *Dual Aspect*

Section 8.2.3.3 (ii) states that apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light.

The scheme comprises 45% dual aspect units. This is contrary to the Development Plan standard. However, it is in line with the Apartment Guidelines for this Central and Accessible location.

#### 6.11.6. *Separation Between Blocks*

8.2.3.3 (iv) states that 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.

The blocks have in general a separation distance of over separation of 22m between each block, however this reduces to c.10 / 11m at pinch points between C and D, D and E in the L-Shaped blocks. The windows have been carefully positioned to ensure that there is no overlooking between these units. These units are also dual aspect and achieve a good level of light. While contrary to the Development Plan it is in accordance with NPO 13 of the National Planning Framework which promotes performance criteria over rudimentary numerical standards.

The applicants Material Contravention Statement also provides a table which provides summary of compliance with the standards set out in the Apartment Guidelines.

#### 6.12. **Conclusion**

It is considered that the subject site is an appropriate well design, high quality development that is in line with the requirements set by the apartment guidelines. The 3 no. residential blocks all provide storage, private amenity spaces, communal spaces, dual aspect and appropriately sized units. The mix of units is appropriate for the area, which is dominated by large family housing. The proposed increase in density, while also providing attractive apartments, meets the requirements in terms of daylight and sunlight, protection of privacy and large areas of well light communal and public open spaces, is entirely in line with the NPF, national policy guidelines and specifically the Apartment Guidelines which values qualitative assessment over quantitative assessment. The supporting documents in this application demonstrate that this is a

high quality, well designed development that meets all other guidelines for a sustainable, accessible site such as this.

6.12.1. The Material Contravention Statement also provides details of recently granted permissions in the area which have similar characteristics of the proposed development. These include the previous grant of permission on the site, 308157-20. Permission was granted for 466 no. Build to Rent apartments with a net density of 160 units per ha; 307545-20 permission was granted for 146 no. apartments in 4 no. 6 storey blocks with a density of 130 units per ha at Walled Garden, Gort Muire c. 900m from the subject site; 305940-19 permission was granted for 564 no. Build to Rent apartments in 6 no. blocks ranging in height up to 17 storeys with a density of 365 units per ha at Carmanhall Road, located 100m from the subject site; PL06D.307415 permission was granted for 200 no. apartments in 4 no. 5-7 storey blocks with a density of 167 units per has at a stie at Murphystown Road c 150m from the subject stie and; 305261-19 permission granted for 107 no. apartments with a density of 250 units per ha at Dundrum Town Centre, c. 100m from the subject site.

National planning policy is clear and united in its support for increased building height and density in order to increase residential development levels at appropriate urban locations. The proposed height is considered to be in compliance with the provisions of the NPF and the Building Height Guidelines.

The Board can materially contravene the development plan having regard to the proposed development being a “Strategic Housing Development”, as defined under Section 3 of the 2016 Act and permission can be granted under Section 37(2)(b)(i) of the 2000 Act.

Whilst Policy RES5 of the Development Plan seeks to generally provide average net densities of 35-50 units per ha, RES3 seeks to provide higher residential densities of minimum 50 units per ha on sites within 1km of a luas stop. Permission can be granted under Section 37(2)(b)(ii) of the 2000 Act.

Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPR’s) of the guidelines in carrying out their function. SPPRs, as stated in the Guidelines, take

precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Compliance with the Section 28 Guidelines is detailed in the Material Contravention Statement. Permission can be granted under Section 37(2)(b)(iii) of the 2000 Act.

Notwithstanding the DLRCC Building Height Strategy we note that existing apartment building heights in the wider area already extend up to 8 storeys (e.g. Wyckham Point) which exceed the limits of the Height Strategy. The proposed development ranges in height from 5 to 10 storeys which is broadly similar to the apartment height ranges already in the area. Permission can be granted under Section 37(2)(b)(iv) of the 2000 Act.

It is considered that this statement provides appropriate justification for the Board to grant permission for the development in accordance with national policy and guidelines

## 7.0 **Third Party Submissions**

7.1. 84 no. third party submissions were received. The submissions generally support the development of the site for residential development. The concerns raised are summarised below: -

### ***Principle of Development***

- The planning inspectors report on the previous application recommended that permission be refused as the development did not accord with the INST objective for the site, as the scheme was considered excessive in scale, massing, development footprint and lack of meaningful open space and the open character of the lands was not sufficiently retained. This issue has not been adequately addressed by the current proposal.
- The plan is non-compliant with Zoning Objective A: to protect and / or improve residential amenity.
- The proposed development would materially contravene the draft development plan which has not been addressed by the applicant.

### ***Tenure and Mix***

- The Build to Rent model would result in a transient population that will not form part of the community.
- The unit mix is a material contravention of the development plan.
- The mix of units is poor with a demand for more 3-bed family units.
- The scheme is not compliant with RES7 to create a sustainable community

### ***Design Approach***

- This site is located in a suburban area and is c. 1km from Dundrum Town Centre. It is not suitable for high rise / high density development.
- The proposed height and density are excessive and would result in overdevelopment on this site. The scheme fails to provide a reasonable balance between the proposed scheme and the existing properties and does not comply with the provisions of the development plan.
- The height exceeds that previously granted by An Bord Pleanála and does not address the concerns raised in the previous application.
- The proposed development would negatively impact on the suburban character of the area.
- There are building heights of up to 8-storeys in adjoining developments (Wyckham Point apartments and Wyckham Place). However, the maximum height is confined to a landmark location adjacent to the main road roundabout junction into Wyckham Avenue from Wyckham Way. These developments are also built in a relative hollow. Therefore, the visual impact is far less intrusive and overbearing than that currently proposed.
- The site is not comparable to the Walled Garden development. The Walled Garden site is c. 3m lower than the subject site and has a maximum height of 6 storeys.
- The site is visually dominant, if permitted the scheme would create a very serious visual intrusion / impact across all of the surrounding residential developments due to the siting, height, scale and bulk of the development.
- The third-party submission from BPS Planning and Development Consultants on behalf of Residents WBC Company Limited included independent photomontages from Wesley Lawns and Wesley Heights.

- Overdevelopment of the site. The size of the commercial elements, creche and café, have been reduced while the number of units has increased.
- The scheme would devalue properties in the area.
- The units are too small to accommodate families.
- The percentage of dual aspect units is questionable.

### ***Built Heritage***

- The planning inspectors second reason for refusal considered that by reason of its excessive scale, massing, dominant form, overbearing impacts and insufficient transition provision, proximate to an architecturally sensitive site 'Gort Muire' and domestic scale dwellings, does not provide the optimal design solution for the site having regard to the site's locational context and is considered not to be in compliance with Criteria No. 1 'Context' of the Urban Design Manual. This issue has not been adequately addressed by the current proposal.
- Blocks B, C and D would have a significant negative impact on the protected structure on the adjacent Gort Mhuire. There are no photomontages showing this impact.
- The Daylight and Sunlight assessment indicates the scheme would have a significant negative impact on access to light for the dormitory block in Gort Mhuire.

### ***Residential Amenity***

- The proposed development would have an overbearing impact on existing properties. There is an inadequate transition between the proposed and existing buildings.
- The proposed development would result in excessive overlooking of existing residents due to the limited separation distances and the height of the proposed blocks.
- The proposed construction working hours of 7am – 7pm are unacceptable due to the proximity of the site to existing residents and the duration of the projection (3 years plus).



- The application does not include a vibration assessment. The potential impact of construction vibration on existing properties over 3 years is unclear.
- Little detail has been provided regarding how dust would be minimized during the construction period.
- Insufficient screening between the proposed development and existing properties. The proposed 2m high boundary fence with Wesley Lawns would have a negative visual impact. The boundary treatment should consist of a 1.5m high semi-mature hedgerow.

### ***Transportation***

- This site is c. 1km from Balally Luas Stop. The Luas is already operating at capacity and cannot accommodate a development of this scale.
- This site is located c. 500m from a bus stop. Bus does not have the capacity to accommodate the proposed development.
- Vehicular movements generated by the proposed development would negatively impact on the surrounding road network which is already operating above capacity.
- The under provision of car parking spaces would result in overspill onto the surrounding road network which would have a negative impact on existing residents.
- The access road is a private road. Therefore, the council cannot enforce any parking restrictions.
- This application missed an opportunity to provide improve vehicular access to St. Tiernan's Community School.
- Concerns that the proposed access point onto Greenmount Lane would create a hazardous flow of bicycles and e-scooters onto a quiet pedestrian lane.
- Additional pedestrian / cycle access onto Wesley Lands and Wesley Heights would have a significant negative impact on the existing residential amenities in terms of pedestrian movements and overspill car parking.

### ***Ecology***

- The loss of green spaces, trees and hedgerows would negatively impact on biodiversity.

- There is insufficient detail regarding the potential impact on the River Slang or Ballawley Stream.
- Smooth newt have been observed in the gardens of Wesley Lawns. Therefore, it is assumed that there are a large population of similar newts in the subject site. No survey has been provided.

### ***Open Space***

- Ballawley Park is being absorbed into the development in lieu of public open space. This is unacceptable. Dun Laoghaire Rathdown County Council have not given consent for the inclusion of an area of public space to be included within the applicants redline boundary.
- The level of public open space is being reduced from that previous approved (ABP 308157-20). This is not in accordance with the INST objective.
- The scheme is built on lands zoned for open space in the draft development plan.
- Evergreen trees planted by the applicant at the boundary with Parkvale have died. It is assumed this is due to water logging of the ground and the level of granite rock in the site.

### ***Social Infrastructure***

- Local schools are at capacity.
- There are long waiting lists for services in the area.

### ***EIAR***

- The EIAR incorrectly states that there is consent from Dun Laoghaire Rathdown County Council to include part of the public park within the development. The elected representatives have not consented to this and, therefore, the application is invalid. The development does not note that the public park is Zoned F, therefore, no development should be allowed in this area.
- There was a failure to implement a wide scope and broad purpose of the EU environmental requirements for effective public participation and consultation and as this process has totally ignored these regulatory requirements the application should be refused.

- The EIAR fails to recognise that the applicant has already cut down trees and hedgerows affecting the environment in advance of lodging this application.
- The EIAR fails to adequately discuss alternatives and misleadingly states that the buildings have been located to sensitively reflect the existing neighbouring properties.
- The EIAR notes medical practices and schools it fails to detail the oversubscribed waiting lists.
- The EIAR fails to recognise the cumulative impact of many developments in this area and the subsequent overloading of community, medical, educational and transportation services.
- The EIAR fails to mention that the original 19<sup>th</sup> century boundary wall at the interface with the park will be removed.
- The assessment of the visual impact on Wesley Heights is subjective and misleading.

### ***Inland Fisheries Ireland***

- The proposed development would potentially impact directly on the Slang Stream (a salmonid channel) and subsequently to the River Dodder. The stream functions as a nursery for the Dodder channel trout population. Although heavily impacted by development, it is considered that the Slang has significant potential for rehabilitation. Any future development in the area should not cause any degradation of fishery habitat.
- The River Dodder is exceptional among most urban rivers in the area. Only clean, uncontaminated surface waters must be permitted to discharge to the surface water network so that the ecological integrity of the system is protected.
- Should development proceed, best practice should be implemented at all times in relation to any activities that may impact on surface water (stream and river) or riparian habitats.
- It is essential that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development with no negative repercussions for quality of treatment, final effluent quality and the quality of receiving waters. Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is essential that

local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

### ***Other Issues***

- Concerns are raised that many drawings and details refer to the extant permission on the site and not the current application.
- A significant number of submissions raised concerns regarding the lack of engagement from the applicants with the existing residents.
- Concerns raised regarding the ability of the proposed development to operate safely during a pandemic.
- Concerns raised regarding the SHD process.

## **8.0 Planning Authority Submission**

8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 15<sup>th</sup> February 2022. The report includes a summary of the proposed development, submissions from third-party's and prescribed bodies, relevant planning history, the site location and description and the policy context. A summary of the views of the elected members of the Dundrum Area Committee, meeting held on the 24<sup>th</sup> January 2022. The main concerns, of the elected members related to the increased density and height over and above that previously approved on the site while reducing car parking and public open space provision ; contraventions of the development plan; cumulative impact of development in the area needs to be assessed; negative impact on existing residential amenity; the development would dominate the surrounding area and is overdevelopment of the site; overbearing impact; part of the site is zoned for open space in the draft development plan; concerns regarding proposed linkages through existing residential estates; over proliferation of Build to Rent Schemes; concerns over unit mix and high proportion of 1-bed units; under provision of car parking would result in overspill onto the surrounding road network; public transport is at capacity; cycle infrastructure in the area is poor; insufficient capacity on the surrounding road network; loss of trees and hedgerows; concerns regarding the SHD process; noted that there is an ongoing Judicial Review; concerns over the cost of part V units; concerns over

the inclusion of public space within the applicants red line boundary. Reports from the Housing, Drainage, Environmental Section, Transport Planning Parks, Lighting and Environmental Health Sections have also been provided in Appendix A.

- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

***Principle of Development:*** The proposed development is generally acceptable in principle with the zoning objective. The site is also subject to an INST objective. The subject site were never landscaped or formed part of the formal recreational amenity area for the Carmelite Centre and remained fenced off and as an agricultural field. The site along with other plots were sold for redevelopment. In this regard the Carmelite Centre has rationalised its landholding. As the uses on the site accord with the lands zoning objective, the principle of development is considered acceptable.

#### ***Institutional Lands and Open Space***

*Open Space:* It is considered that the quantum of open space is in accordance with the requirements of Policy RES5 for the redevelopment of institutional lands.

*Open Character:* The general extent of tree removal is considered acceptable when balanced against the need to redevelop the site at adequate and sustainable densities and also on the basis of the overall landscape strategy and the extent of planting proposed at 764 no. trees.

*Density:* The scheme is deemed to be in accordance with Policy RES5 and compliant with the sites Institutional Objective. However, concerns are raised regarding the density which it is considered is an indication of the overdevelopment of the site leading to the underperformance of other key matters such as separation distances, existing and future residential amenity, visual impact and impact on the character of the Protected Structure.

*Masterplan:* The submitted Masterplan demonstrates the relationship between the proposed development and the existing built and natural heritage on the site and adjacent to the site, including Gort Mhuire lands which are also subject to the INST designation. It is considered that the requirements of Section 8.2.3.4 (xi) are satisfied.

**Density:** In the context of other relevant considerations, such as location and in particular proximity to the Balally Luas stop and Dundrum Town Centre and to current national and local planning policy requirements to promote higher densities and compact growth within existing built-up areas in order to make a sustainable use of land, that the provision of a density of development high that the current pattern of development in neighbouring lands is appropriate. While no objection is raised it is considered that the proposed density has certain implications in terms of building height, impacts on residential and visual amenities and impacts on the protected structure that also need to be considered.

**Building Height:**

*Development Plan:* It is acknowledged that there are opportunities for increased building height on the subject site having regard to upward modifiers. However, there are sensitivities which also need to be considered. Cognisance is given to previously accepting the principle of up to 6 storeys at this location. However, it is considered that the proposed development with height of up to 10 storeys materially contravenes the development plan. It is considered that the height limit established in the development plan is consistent with current national policy for suburban locations.

It is considered that the height and mass of Block B relative to the adjacent 2-storey housing at Parkvale is unacceptable, would not integrate with the existing area and would unduly impact on the character and visual amenity of the receiving environment. Similar concerns are raised regarding Blocks C and D and the impact of overbearing and dominance of the Carmelite Centre.

*Material Contravention:* It is considered that the applicants material contravention statement does not give enough consideration to the developments impact on the immediate surroundings, in particular to the dwellings to the east at Parkvale, the Carmelite Centre to the west and to St. Tiernan's School to the north.

*Urban Development and Building Height Guidelines:* The planning authority are not satisfied that the proposed development meets the criteria of Section 3.2.

At the district / neighbourhood / street level the proposal by way of its height, form and separation distances to the boundaries, fails to appropriately respond to the 2 storey

housing at Parkvale, St. Ternan's Community School and Block 8 in the Carmelite Centre. In this regard, Block B (up to 10 storeys) is positioned at a higher level of ground and minimum of 46m from the boundaries of dwellings at Parkvale and 14m to the boundary with St. Tiernan's Community College. The positioning of Block B in close proximity to St. Tiernan's would cause significant privacy issues and in this regard, the design has not responded to its natural environment.

At the site level the minimum separation distances of between 9.67m, 9.58m and 14.9m between Blocks C and D, Blocks D and E and Blocks A and B respectively are considered unacceptable and would negatively impact the residential amenities of future residents by way of overbearing and overshadowing.

As identified in the Daylight, Shadow and Sunlight Impact Report 27% of units fails to comply with the 2% ADF. A large number of these are located in Blocks C and D. It is considered that this is due to the limited separation distances between the blocks and the resulting overdevelopment of the site.

The impact of the limited separation distances is further shown in the Wind Study which identifies that the balconies on the southern and northern corners of Block A and Bloc C would be negatively impacted due to the prevailing westerly and south-westerly winds and the acceleration that can occur due to the flow through the narrow passage between block C and the existing buildings at the Carmelite Centre. This is a clear indication that the proposed design constitutes overdevelopment and would result in a deficient level of residential amenity for future residents.

The development fails to respond to the site given the positioning of Blocks C and D a minimum of 22.7m from the southern elevation of Block 8 (dormitory block) in Gort Mhuire. As a result the development would be both overbearing and negatively impact on the visual amenities of Gort Mhuire.

It is considered that the height, in addition to the scale, massing and layout constitutes overdevelopment of the site. The proposal does not justify exceeding the development plan to the extent proposed. The development fails to meet the criteria set out in Section 3.2 of the Building Height Guidelines in that at the neighbourhood / street level the proposed development fails to integrate with the existing 2-storey houses and existing uses at St. Tiernan's Community School and Gort Mhuire.

The development would be out of character with the established pattern of development and would appear visually overbearing and would create an abrupt transition in scale and typology. If permission is being contemplated the height of the development should be significantly reduced to a maximum of 6 storeys.

***Standard of Accommodation:***

*Dual Aspect:* The planning authority does not agree that the minimum proportion of dual aspect units is 33%. Given the sites location it is considered that a minimum of 50% of units should be dual aspect. The proposal of 45.4% fails to comply with SPPR 4. Concerns are also raised regarding the applicants definition of dual aspect. It is noted that some units are considered dual aspect by way of the provision of an extension on the existing façade on the north-eastern elevation of Block A and the north-western elevation of Block E. Examples are given of Units 103 and 104 in Block E and units 302 and 303 in Block A.

*Residential Amenity:* The quantity of residential support facilities and amenities is considered acceptable and in accordance with SPPR 7.

*Daylight and Sunlight:* 27% of the units (145 no.) fail to comply with the 2% ADF target for combined L/D/K areas. It is noted that a large number of units failing to achieve the standard are located in Blocks C and D. it is considered that this is due to the limited separation distances between the blocks and the resulting overdevelopment of the site. the applicant notes the delivery of 45.5% of the units as dual aspect as a mitigation measure for the ADF results. However, there are concerns that the scheme fails to meet the 50% dual aspect requirement and the planning authority do not concur with the applicant that some of the units identified as dual aspect are true dual aspect units.

***Impact on Residential and Visual Amenities***

*Within the Development:* There are serious concerns regarding the separation distances between Block A and B (14.9m), Block C and D (9.67m) and Blocks D and E (9.58m), which would negatively impact the residential amenities of future residents by way of overbearing, in addition to resulting in a cramped site layout.



It is stated that the separation distances provide enclosure to the courtyards and translucent glazing is provided to prevent direct overlooking. It is acknowledged that the translucent glazing would prevent overlooking, however, it would negatively impact the amenity of the apartments.

The separation distances coupled with the height would negatively impact on the residential visual amenities of future residents. It is considered that the limited separation distances are a clear indication that the design constitutes overdevelopment of the site.

*Neighbouring Properties and the Streetscape:*

*The Carmelite Centre:* There are concerns regarding the impact of the proposed development on the residential amenities by way of overshadowing, overbearing impact and overlooking and the visual amenities of the no. 8 block in the Carmelite Centre which is located to the north of Block D. A separation distance of 22.7m and a height of 7 no. storeys at Block D is considered unacceptable. There are serious concerns that 44 of the 118 windows in block 8 Gort Mhuire fail to achieve a VSC of greater than 27% and experience more than 20% reduction in its former VSC value.

*Parkvale and St. Tiernan's community School:* There are concerns regarding the scale and massing of Block B and its resulting negative impact on the visual and residential amenities of dwellings in Parkvale and St. Tiernan's Community School. The reduction in length and height of Block B from that previously proposed is welcomed, however, there are still concerns. In particular given its positioning on the site and level differences across the site and wider area it is considered that Block B would appear overbearing.

Concerns that that the proposed outdoor cinema on the communal roof space of Block B has the potential to generate significant noise which may negatively impact adjacent properties. It is recommended that the outdoor cinema is omitted.

**Conservation:** It is noted that no photomontages have been submitted from the water gardens, from the terrace or windows of the house, from the conservatory or from the elevated ironwork walkway extending across the garden façade of the house all of which are part of the protected structure. Whilst the protected structure has already

been impacted due to permitted development along Wyckham Place, it is considered that the proposed development would further impact the setting of the protected structure due to its scale and extent of development proposed along the boundary with the protected structure, which is considered to be excessive and overbearing. Of particular concern is the height and positioning of Block C and D. It is considered that the scale of development is excessive and unacceptable and would detract from the character and setting of the protected structure and, therefore, fails to accord with Policy AR1 and Section 8.2.11.2(ii) of the development plan.

**Housing Mix:** SPPR8 is acknowledged, nevertheless, the provision of a greater number of 3-bed apartments on the site to create a sustainable residential community in accordance with RES7 is encouraged.

Concerns regarding the number of units with en-suites and no standalone bathrooms.

**Design and Finishes:** No concerns are raised regarding the proposed external materials.

**Open Space:**

*Quantitative Standards:* The quantum of open space is in accordance with the requirements established by Policy RES5 for the redevelopment of institutional lands.

*Qualitative Standards:* No concerns raised in this regard.

*Private Open Space:* The HQA indicates that all apartments would have private open amenity space in accordance with the Apartment Guidelines.

*Public Realm:* The general layout of the public realm is welcomed in terms of routes that would be provided through the site and the variety of spaces that would be created. The design of the arrivals courtyard and its relationship with the water tower which creates a key nodal space is welcomed.

It is considered that providing for an element of taking in charge would have been beneficial to the objectives to securing the access and accessibility aspects of the routes and open spaces, particularly the primary area of public open space in the south east of the site.

To improve permeability pedestrian and cycle access should be provided to the north west of Block D providing access to the Gort Mhuire site.

It is recommended that the cycle routes are delivered via 4m wide shared facilities, which would follow the 2 no. desire lines, from Ballawley Park between Block B and C on to Wyckham Way and also from Ballawley Park along the eastern boundary of the site towards St. Tiernan's Community School and on to the Slang Greenway.

It is noted that the Transportation Section report raised concerns regarding the failure to conduct a Quality Audit and the need to provide segregated cycle tracks on each side of the access route at the entrance to the development from Wyckham Place.

*Car Parking:* it is considered that more car parking provision is required in the subject suburban location in order to ensure that the development is not reliant on parking provision / car storage within the adjoining area. The location of 10 no. visitor car parking spaces in Block B is not considered convenient to all blocks. It is also considered a higher quantum of drop off spaces for the creche are required. A set down area for deliveries should also be provided.

***Cycle Parking:*** Concerns raised regarding the provision of stacked visitor cycle parking spaces. The omission of cargo bike stands and e-bike facilities is also of concern. Given the reduction in car parking it is considered that the development should encourage cycle parking through the delivery of direct cycle routes and appropriate cycle stands.

***Traffic:*** The scale of traffic impact generated would not have a significant impact on the operating performance of the road network.

***Surface Water Drainage and Flood Risk:*** The report references the report of the Drainage Section which is attached as an appendix.

***Part V / Social Housing:*** It is the councils policy to phase out long term leasing of social housing and instead to progress the build and transfer of site into its ownership.

***Childcare:*** The size of the creche is considered acceptable.

***Biodiversity:*** The mitigation measures outlined in the EIAR are noted.

**Taking in Charge:** The opportunity to take in charge Wyckham Place would be welcome.

**AA / EIAR:** The submitted AA Screening Report, NIS and EIAR are noted.

It is recommended that permission be refused for 5 no. reasons outlined below: -

1. The proposed development with heights of up to 10 no. floors, fails to meet the criteria set out in Section 3.2 of Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities , December 2018, and that at neighbourhood / street level, the proposed development, would create a visually dominant and overbearing form of development when viewed the Protected Carmelite Centre lands, Parkvale and St. Tiernan's and as a result would significantly injure the residential and visual amenities of the area. In addition, the proposed development by reason of inadequate separation distance between apartment blocks would result in a cramped building form and substandard level of residential amenity for future occupants in terms of overshadowing and poor visual amenity. The proposed development is therefore contrary to the proper planning and sustainable development of the area.
2. The proposed development would have a detrimental impact on the setting and amenity of the Protected Structure (RPS No. 1453) and would therefore be contrary to Policy AR1 and Section 8.2.11.2(ii) (Development in Proximity to a Protected Structure) of Dun Laoghaire Rathdown County Development Plan 2016 – 2022.
3. Having regard to the suburban location of the site, it is considered that the proposed development would by reason of the inadequate number of car parking spaces provided to serve the future occupants and visitors to the development, result in car parking overspill on surrounding residential roads. The proposed development would, therefore, seriously injure the amenities of properties in the vicinity and, as such, would be contrary to the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and to the proper planning and sustainable development of the area.
4. Having regard to the proposed height, scale and separation distances to the boundaries, it is considered that the proposed development would appear

visually obtrusive and overbearing when viewed from the properties at Parkvale. The proposed development would significantly detract from existing residential amenity and would depreciate the value of these properties, materially contravening the zoning objective A, which seeks 'to protect and or improve residential amenity' as set out in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022.

5. The proposed development fails to maximise permeability and connectivity for pedestrians and cyclists through the provision of a direct route from Greenmount Lane to Ballawley Park to St. Tiernan's Community College and ultimately the Slang Greenway, in accordance with Policies ST5 and ST6 of the County Development Plan and as a result is considered premature.

If permission is being contemplated that planning authority have provided 45 no. recommended conditions.

## 9.0 Prescribed Bodies

- 9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Irish Water
- Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
- An Taisce
- Heritage Council
- Transport Infrastructure Ireland
- National Transport Authority
- Dún Laoghaire Rathdown County Childcare Committee

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 10<sup>th</sup> December 2021. A summary of the comments received are summarised below:

### ***Irish Water***

It is confirmed that the applicant has been issued with a statement of design acceptance for proposals within the redline boundary.

*Water:* a water connection to the public network is feasible and is not subject to any upgrades.

*Wastewater:* a wastewater connection to the public network is feasible and is not subject to any upgrades.

### ***An Taisce***

It is considered that this site is suitable for a substantial residential development and that permission was granted under ABP-308157-20 for a development of 5 no. blocks ranging in height up to 9 storeys and containing 446 no. apartment units. However, the revised proposal would concentrate the apartment blocks along the shared boundary with the Gort Muire. It is considered that the revised proposal is not appropriate

*Impact on Protected Structures:* Insufficient images have been provided to show the impact of the development on the Protected Structure, bearing in mind that the protected elements include not only the Water Tower but also the House, Ornamental Ironwork, and Conservatory as well as the Water Gardens.

It is considered that the scale is excessive, and there would be an overbearing impact with a likelihood of overlooking from the upper storeys of apartments. Inclusion of further images from different viewpoints would have demonstrated this.

*The Water Tower:* It is acknowledged that the setting of the Water Tower has been compromised by the extensions to the Carmelite Centre, however, any development proposed should not have any further negative impact. The access roadway proposed is too close to the Water Tower and that the proposed Blocks would have a dominant and overbearing effect on the Protected Structure

*Building height, scale and massing:* The heights of the proposed apartment blocks at up to 10 storeys are excessive for this suburban area. The proposed development represents over-development of the site, with the proposed net residential density at 179 units per hectare. The proposed net density would be inappropriate. It is clear that the height and massing necessary to achieve such a density makes the new proposal incompatible with the visual and residential amenities of neighbouring lands and with the established character of the area.

*Material Contravention:* There would be a material contravention of the Development Plan in relation to height and a Material Contravention Statement has been provided. The contravention by up to 4 storeys is very significant and if accepted would set a precedent for others. In our view, the applicant has failed to justify permission being granted by the Board. The height is increased compared to ABP-308157-20 and, therefore, a fresh assessment is required.

***Transport Infrastructure Ireland:*** No comments

No submissions were received from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, The Heritage Council, the National Transport Authority or Dún Laoghaire Rathdown County Childcare Committee

## 10.0 **Assessment**

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the chief executive's report, 3<sup>rd</sup> party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Design Approach
- Height
- Residential Amenity
- Built Heritage
- Housing Tenure and Unit Mix
- Transportation
- Water Services and Flood Risk
- Other Issues
- Material Contravention
- Chief Executive's Report

## 10.2. ***Principle of Development***

- 10.2.1. The proposed development comprises the construction of 531 no. 'Build to Rent' (BTR) apartments in 5 no. blocks (A – E) ranging in height from 3 to 10 storeys. Blocks A and B on the northern portion of the site are located above a partial basement / lower ground floor level.
- 10.2.2. The site is zoned 'Objective A' with the associated land use objective '*to protect and/or improve residential amenity*'. Residential uses are listed as a 'permissible use' on these lands and is considered an appropriate use for the site. Childcare Services and Restaurants are 'open for consideration'. Therefore, the proposed development is considered to be in accordance with the zoning objective.
- 10.2.3. The site is also subject to the specific local objective 'INST' which seeks to protect and / or improve Institutional use in open lands. Specific objectives for Institutional lands are provided in Section 2.1.3.5: Policy RES5 Institutional Lands and Section 8.2.3.4(xi) Institutional Lands of the development plan. The development plan recognises the changing nature of institutional lands and states that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area. This is subject to a number of caveats. In this regard Section 2.1.3.5 requires that proposed developments on institutional lands retain the open character of the lands, with a minimum provision of 25% of the total site area provided as open space (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater). Average net densities should be in the region of 35 - 50 units p/ha. The density range is reflective of the standards set out in 'Sustainable Residential Development in Urban Areas' (2009) and it is noted that Policy RES 3 Residential Density of the development plan states that regard should be had to these guidelines. In addition, a masterplan should be submitted for the overall lands.
- 10.2.4. Concerns have been raised by third parties that the proposed development is not in accordance with the site's institutional objective. The planning authority have not raised any concerns regarding compliance with the INST objective. It is my opinion that the main elements of the institutional designation can be summarised as demand



for an alternative institutional use; open space requirements; open character; density; and masterplan. In the interest of clarity each of these issues is addressed below.

Demand for an Alternative Institutional Use:

- 10.2.5. Section 2.1.3.5 and Section 8.2.3.4 (xi) of the development plan states that *'where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained'*.
- 10.2.6. It is noted that the planning authority and third parties raised no concerns in this regard. The applicant's Planning Report notes that the subject site was previously owned by the Carmelite Order and was sold to the applicant in 2019. When the site was in the ownership of the Carmelite Order it was fenced off from the rest of the landholding and was in use as an agricultural field. It never formed part of the formal recreational amenity area of the Carmelite Centre and was never formally landscaped as part of the attendant grounds to the complex of buildings.
- 10.2.7. During my site visit on the 24<sup>th</sup> February 2022 it was noted that the subject site was vacant, and visually and physically separated from the landscaped grounds associated with the Carmelite Centre. Therefore, having taken account of the above I see no obvious demand for an alternative institutional use on the subject site and in accordance with Section 8.2.3.4 (xi) consider that alternative uses may be permitted. This would be subject to other considerations, which are examined in the following sections.

Open Space:

- 10.2.8. Sections 2.1.3.5 and 8.2.3.4(xi) of the development plan state that *'A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands'*. Section 8.2.8.2 states that for all developments with a residential component of 5+ units there is a requirement of 15sqm - 20 sqm of Open Space per person based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or

fewer bedrooms. It is noted that Section 8.2.3.3 (xi) does not differential between public, communal or private open space.

- 10.2.9. The proposed development has a total area of c. 4.2 ha. The scheme comprises c. 1.9ha of open space (c. 1.2 ha public and c. 0.7 ha communal) which equates to c. 45% of the total site area. The proposed quantum of open space, therefore, significantly exceeds the 25% standard set out in section 2.1.3.5.
- 10.2.10. With regard to the requirements set out under Section 8.2.8.2, the scheme comprises 531 no. units with 28 no. studios, 297 no. 1-beds, 197 no. 2 -beds and 9 no. 3-beds. Therefore, there is a requirement for 1.2ha (15sqm per person) or 1.6ha (20 sqm per person). The proposed development provides c.1.9 ha of open space and is, therefore, in excess of the requirements set out in Section 8.2.8.2.
- 10.2.11. It is noted that Sections 2.1.3.5 and 8.2.3.4(xi) refer to the “total site area”. In this regard, the overall site area is considered to comprise adjacent lands at the Carmelite Centre which are also subject to the Institutional Lands designation. The subject site in combination with the Carmelite Centre site has a total area of c.5.4ha. The Carmelite Centre includes extensive formal and natural landscaped grounds with an estimated area of c. 1 ha. When combined with the gross open space provision proposed in the subject site (c.1.9 ha), the total provision across the Institutional Designation lands would be c.2.9ha. This represents over 54% of the overall lands which are subject to the INST objective as open space. I am, therefore, satisfied that the quantum of open space is in accordance with both Section 2.1.3.5 and Section 8.2.3.4(xi) of the development plan. The planning authority consider that the quantum of open space is in accordance with the requirements of Policy RES5 for the redevelopment of institutional lands and raised no objection regarding a material contravention.
- 10.2.12. Third parties also raised concerns that the proposed quantum of open space is reduced from that previously approved on site. While this assessment is not informed by the previous grant of permission, in the interest of clarity and having regard to the concerns raised by third parties it is noted that the previously approved scheme (308157-20 which is currently subject to a Judicial Review) incorporated c. 1.3 ha of public and communal open space. As outlined above, the proposed scheme

incorporates c. 1.9 ha of public and communal open space, which is in excess of that previously approved.

### Open Character

10.2.13. Policy RES5 states that where distinct parcels of land in institutional use are proposed for redevelopment, it is policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs. Section 2.1.3.5 further states that the provision of open space should be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features.

10.2.14. As outlined above, the proposed development includes a large area of public open space (c. 12,347 sqm). This area of public open space is proposed at the eastern portion of the site and would provide direct connectivity to Ballawley Park. The Landscape Design Report notes that public open space for the scheme is proposed as an open permeable landscape without boundaries. Concerns are raised by third parties that a portion of the existing Ballawley public park is being incorporated into the scheme. While it is noted that a section of Ballawley Park is located within the red line boundary of the application site, the information submitted indicates that public open space, in excess of development plan standards (29.5% of the site area) is being provided within lands in the ownership of the applicant and does not incorporate any publicly owned lands. It is my opinion that the removal of the existing boundary between the subject site and Ballawley Park would significantly improve the open character of the site. In addition, this link between the subject site and Ballawley Park would make currently unavailable / privately owned lands available to the general public and would improve connectivity from the existing residential estates (Parkvale, Wesley Heights / Wesley Lawns) and public park through the site towards Wyckham Way to the west.

10.2.15. It is proposed that formal tree planting would be provided at the sites boundaries and that parkland trees would merge into the public and courtyard spaces with a number of specimen trees adding to overall character. The Landscape Design Report states that woodland planting would define and screen boundaries adding to the overall

character of the site and the walking routes around and through the site, creating ecological corridors to link into the surrounding area.

10.2.16. In addition to the quantum of public open space, the scheme also includes 6,976sqm of communal open space. Communal open space is provided adjacent to each block, in this regard c. 979sqm adjacent to Block A, c. 3,853 adjacent to Block B, 1,079 adjacent to Block C, c. 558sqm adjacent to Block D and c. 507sqm adjacent to Block E. A 323sqm communal roof terrace is also proposed at Block B. The ground floor areas of communal open space are located adjacent to the areas of public open space and public walkways through the site / between the blocks.

10.2.17. The open spaces include areas for active and passive recreation. The public open space includes a playground and a kick about area, obstacle course, exercise areas and a jogging / walking route. The communal open space includes a playground and high activity play space for older children, a MUGA, ground markings area, dog walking area and a tennis court. The communal and public open space would be separated by formal boundary treatments including hedges and walls. It is my opinion that the proposed scheme would result in a high quality of both public and communal open space for future and existing residents.

10.2.18. There is also an objective on the site to protect and preserve trees and woodlands. Concerns were raised by third parties that that the proposed development, would result in an unacceptable loss of trees and, therefore, it is not in accordance with this objective. The tree survey indicates that that there is a diverse tree population with a large proportion of relatively young trees aged between 5 and 15 years. The site also supports a relatively small mature tree population, much of which is positioned close to the southern and north-western site boundaries. Tree quality and sustainability vary across the site. The Arboricultural Assessment notes that there are currently 139 no. individual trees on the subject site and that the central portion of the site, which is to be developed, is devoid of valuable trees. Of the 139 no. trees 1 no. is category A (excellent), 51 no. are category B (good quality), 65 no. are category C (poor quality) and 24 no. are category U (unsustainable). It is proposed to remove 53 no. trees, which includes 6 no. category B (good quality), 27 no. category C (poor quality) and 20 no. category U (unsustainable). The applicant notes that some category U trees are being retained as they are located on the red line boundary and their removal

would require the approval of a third party. The landscaping proposals includes 746 no. new trees, which accounts for a net gain for 711 no. trees. The planning authority note that the general extent of tree removal is considered acceptable when balanced against the need to redevelop the site at adequate and sustainable densities and also on the basis of the overall landscape strategy and the extent of planting proposed at 764 no. trees.

10.2.19. While it is acknowledged that the scheme would result in the loss of 6 no. category B trees it is my view that the design and layout of the scheme has been cognisant of the existing trees on the site and has allowed for the retention of the majority of the high-quality (category A and B) trees. I have examined the documentation on file, including the Arboriculture Assessment and Landscape Design rationale which sets out proposals for the adoption of controlled construction techniques and tree protection measures. I believe that the potential for tree retention has been maximised as best as possible and tree loss has been mitigated by what is a substantial planting scheme of an additional 711 no. trees. Having regard to the site's urban location and its zoning objective is my view that the proposed level of tree loss is reasonable and has been adequately compensated for with the quantity and quality of the proposed new trees and associated vegetation and landscaping within the site and that the proposed scheme would be in accordance with the objective to protect and preserve trees and woodlands.

10.2.20. The Landscape Design Report also notes that the scheme would include a variety of boundary treatments which respond to the site's context. The existing walls at the entrance to the site would be removed to create a sense of openness and permeability and to facilitate a new service road at the site's western boundary. The existing site boundaries with St. Tiernan's Community School and existing residential properties would be retained and supplementary screen planting provided.

10.2.21. Having regard to the quantity and quality of the open space proposed within the scheme and the overall institutional landholding, the sites use as an agricultural field and the lack of existing publicly available open space within the overall institutional landholding and within the subject site, I am satisfied that the open character of these institutional lands is being retained and expanded. In addition, it is noted that Policy RES5 states '*it is Council policy to retain the open character and/or recreational*

*amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs*'. I note 'wherever possible' in the context of this policy. With regard to recreational amenity and uses on site, in this instance, the lands would appear to have historically offered very little in the way of recreational amenity, and were fenced off from the general public, which remains the case today. I am, therefore, satisfied that the development of these lands would not result in any net loss of recreational amenity for the wider area. Therefore, it is my view that the proposed development is in accordance with Section 8.2.8.2 of the development plan and Policy RES5. It should also be noted that the site is located within the existing urban area and the development of the site would significantly contribute to the consolidation of the urban environment.

Density:

- 10.2.22. The proposed net density is c.179uph (site area excluding the portions Wyckham Avenue and Ballawley Park included in the red line boundary). Policy RES5 establishes a density range of 35 - 50 units per ha for institutional lands and further states that in certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands.
- 10.2.23. Third parties raised concerns that the proposed density is excessive and does not comply with development plan standards. I am satisfied that Policy RES5 allows for higher density where a development contributes towards the objective of retaining the open character and/or recreational amenities of the lands. As noted above, significant public open space is proposed as part of this development which would link to existing public open space at Ballawley Park. In my view the quantity and quality of open space would ensure that the open character of the lands is retained and enhanced. Therefore, it is my opinion that the proposed density is not a material contravention of the development plan. It is also noted that the planning authority consider that the scheme to be in accordance with Policy RES5 and compliant with the sites Institutional Objective.
- 10.2.24. The applicants Material Contravention Statement notes that if the density was considered in isolation, it could be considered a material contravention Policy RES5

of the Development Plan to provide a density of 35 – 50 units per hectare on the site. As justification for the density the applicant refers to Policy RES3 of the development plan which aims 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. Section 2.1.3.3 of the plan further states where a site is located within a c. 1km pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.

10.2.25. The subject site is located c. 600m from the Ballinteer neighbourhood shops with its range of local shops and chemist. In addition, it is located c.750m (10 minutes' walk) from the Dundrum Town Centre and c. 1km from Dundrum village both of which provide a wide range of shopping facilities, restaurants, a library, banks, and other services and leisure facilities, which combined result in a vibrant area. The Beacon Hospital and the employment hub of Sandyford is just over 1km to the east and UCD is located c. 2.8km north of the subject site. The site is also well served by public transport. Full details of the sites accessibility by public transport are provided in Table 2-1 and Figure 2-1 of the submitted Mobility Management Plan. In particular, it is noted that the site is located within 400m of 2 no. bus stops on Wyckham Way. These stops are served by the number 14, which links Dundrum to Artane via the city centre and the number 175 which is an orbital route linking UCD and Citywest. Both the no. 14 and the no. 175 are high frequency routes with a stated maximum frequency of every 10 minutes in the peak periods (source: [www.transportforireland.ie](http://www.transportforireland.ie) and [www.dublinbus.ie](http://www.dublinbus.ie)) and each bus has a capacity of 125 no. passengers. The site is also located within 750m of the Balally Luas Stop. Luas is a high capacity mode of public transport (408 no. passengers per tram) and operates at a frequency of 3-4 minutes in the peak. Therefore, it is my view that the subject site is well served by both high frequency and high capacity public transport in the form of bus and luas. Having regard to the above, I agree with the applicant that the site is suitable for higher density in accordance with the provision of RES3 and Section 2.1.3.3.

- 10.2.26. Notwithstanding this, while I do not consider the proposed density to be a material contravention and consider it to be in compliance with Policy RES3, Policy RES5 and Section 2.1.3.3, for completeness and responding to the precautionary approach adopted by the applicant and the concerns raised by the third parties, I have addressed the issue of material contravention of density standards in Section 10.11 below.
- 10.2.27. It is acknowledged that the proposed scheme has a significantly higher density than the adjoining 2-storey residential estates at Parkvale and Wesley Lawns / Wesley Heights. However, it is my view that the proposed scheme should be viewed in the context of the surrounding area which has experienced a transition from a low density, two storey suburban area to a more urban area, with a mix of different types of units with varying heights and densities, including apartment developments at Wyckham Point and Wyckham Place constructed in the early 2000's and the Walled Garden site (currently under construction) to the immediate west of the site and a number of apartment developments recently granted permission in the Dundrum area as outlined above in Section 4 Planning History.
- 10.2.28. Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The apartments guidelines identify accessible urban locations as sites within a reasonable walking distance (i.e. up to 10 minutes or 800 - 1,000m) to / from high capacity urban public transport stops, such as DART or Luas. As outlined above, having regard to the characteristics of this site, it is my opinion that the proposed increased scale of the proposed development complies with national and regional guidance and, therefore, is suitable for higher density.



10.2.29. In conclusion, it is my view that the proposed density is appropriate in this instance having regard to national and regional policy, the relatively recent permissions in the vicinity of the site, the area's changing context, and proximity to public transport, centres of employment and education and to a range of services and amenity. It is also noted that while the planning authority raised no objection in principle to the proposed density, concerns were raised regarding how the density is expressed and manifested within the scheme itself leading to the underperformance of other key matters such as separation distances, existing and future residential amenity, visual impact and impact on the character of the Protected Structure. These concerns are addressed below in Section 10.3 Design Approach and Section 10.6 Built Heritage below.

Masterplan:

10.2.30. Section 8.2.3.4(xi) Institutional Lands of the development plan further states that in order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. A Masterplan was submitted with the application and includes an overall site layout plan for the entire site, including Carmelite Centre, which is also subject to the INST objective, however, it is outside of the applicant's ownership. The masterplan indicates the relationship between the proposed development and the existing built and natural heritage on the site and adjacent to the site. The applicant Planning Report notes that whilst the masterplan has been agreed with the Carmelite Order it has not been approved by the planning authority. It is noted that the planning authority raised no objection to the masterplan. It is my opinion that the requirements of Section 8.2.3.4 (xi) are satisfied.

10.3. ***Design Approach***

10.3.1. The proposed scheme represents the last remaining substantial site on lands formerly owned by the Carmelite Order. Similar sites have been developed for apartment schemes at Wyckham Point and Wyckham Place to the west of the subject site, with frontage onto Wyckham Avenue and the Walled Garden site currently under construction with access from Wyckham Avenue (private road). While the site is located within the urban area it does not have direct frontage onto a public road and is located c. 230m east of Wyckham Way. It is generally bound to the west by

contemporary apartment developments with heights of 5 – 8 storeys and 3 no. single storey Traveller Accommodation dwellings, to the south and east the site is generally bound by traditional low density large suburban houses and Ballawley Park. To the north the site is bound by St. Tiernan's Community School.

- 10.3.2. The proposed scheme has a contemporary design approach, with 5 no. urban blocks (Blocks A -E) arranged around areas of communal open space and a larger area of public open space on the eastern portion of the site, adjacent to the existing traditional 2-stoey low density houses to the east and south.
- 10.3.3. The proposed blocks vary in scale and mass to respond to the existing adjacent properties, with the taller buildings (Blocks B and C) located in the central and northern portions of the scheme away from the sensitive boundaries and in a lower lying section of the site. The development provides for a new entrance plaza at the sites western boundary with the Carmelite Centre and adjacent to the existing water tower (protected structure). The proposed scheme includes 3 no. future pedestrian / cycle access, in this regard at the site's northern boundary with St. Tiernan's Community School which would also facilities access onto Parkvale, at the sites southern boundary with Wesley Lawns / Greenmount Lane and the sites eastern boundary with Ballawley Park.
- 10.3.4. The proposed 5 no. blocks (A, B, C, D and E) are generally located along the north and western boundaries. They range in height from 3 to 10 storeys. Blocks B – E are linear with Block A located to the west of Block B at the sites main entrance. Areas of communal open space and public walkways are provided between each of the blocks. A breakdown of the blocks is provided below.

**Block A** accommodates 58 no. residential units and a c.438sqm creche at lower ground floor level. This block ranges in height from 6 – 8 storeys with a maximum height of 30m. Blocks A is located adjacent the water tower (protected structure) and the proposed entrance plaza to the site.

**Block B** accommodates 168 no. residential units. It ranges in height from 6 to 10 storeys over a lower ground floor level with a maximum height of 33m. This block includes c.1,488sqm of residential amenity space. The lower ground floor level generally comprises car and bicycle parking, however, it also includes a pet wash area, maintenance office and store areas. The ground floor level includes reception

lobby and residents lounge, meeting/leasing room, parcels/delivery area, event spaces, co-working spaces and screening room. The 9<sup>th</sup> floor level includes studio, gym, private dining room area, storage and an outdoor amenity terrace. It is stated that this terrace would accommodate gym / allotment / cinema area. A cafe unit (c.96.7sqm) is also proposed at ground floor level.

**Block C** accommodates 143 no. residential units. It ranges in height from 8 to 9 storeys with a maximum height of 32m.

**Block D** accommodates 94 no. residential units. It ranges in height from 6 to 7 storeys with a maximum height of c. 24.7m.

**Block E** accommodates 68 no. residential units. It ranges in height from 3 to 5 storeys with a maximum height of c. 17m.

10.3.5. This site is located c. 230m from the public road (Wyckham Way) and the north-western portion of the site is significantly elevated, c. 7m, above the public road and the immediately adjacent developments of Wyckham Place, Wyckham Point and the Walled Garden. The site is undulating with a level difference of c. 10m from its lowest point on the northern eastern boundary to the highest point at its proposed link into Ballawley Park at the south-eastern portion of the site. It is acknowledged that this is a highly visible site, however, having regard to the set back from the public road it is my view that the scheme provides an appropriate transition in scale and height from Wyckham Point, Wyckham Place and the Walled Garden site. It is also my opinion that the blocks are sufficiently set back from the site's sensitive boundaries with the existing 2-storey houses to the south and east and would help to create a distinct character for the site, which would aid with placemaking and legibility. The concerns raised by third parties regarding the impact on existing residential amenities are addressed below in Section 10.5.

10.3.6. Due to the design of the Blocks, the majority of the proposed units front onto areas of communal open space with significant separation distances of up to 35m provided between some of the Blocks. However, there are some pinch points between Block A and B, with a minimum separation distance of c. 9m, between Blocks C and D with a minimum of c. 10m and between Blocks D and E with a minimum of c. 8m. Section 8.2.3.3 (iv) of the development plan states that all proposals for residential

development up to three storeys in height, the minimum clearance distance of c. 22m between opposing windows will normally apply. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. The applicant has addressed and justified the proposed separation distances in the submitted Material Contravention Statement. It is acknowledged that in some instances the proposed separations distances do not accord with the standard set out in Section 8.2.3.3 (iv). However, this is not a policy of the plan and having regard to the flexibility in the wording which notes that *in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable* it is my opinion that this is not a material contravention.

10.3.7. In my view separation distances should be balanced with high quality urban design and placemaking considerations. The applicants Planning Report states that the reduced distances between buildings provide a sense of enclosure and arrival between spaces and the apartments have been carefully designed and the layout adjusted to ensure that there is no windows directly opposing each other or they are translucent glass providing light but not a view. I agree with the applicant that the proposed separation distance would provide a sense of enclosure between the blocks. However, in my opinion in some instance the separation distances proposed are not sufficient to ensure high quality residential amenity for future occupants and have the potential to result in undue overlooking. The planning authority also raised concerns regarding the limited separation distances and their first recommend reason for refusal considered that the proposed development by reason of inadequate separation distance between apartment blocks would result in a cramped building form and substandard level of residential amenity. While I agree with some of the concerns raised by the planning authority regarding undue overlooking it is my opinion that these concerns could be addressed by way of condition. My specific concerns are outlined below.

10.3.8. With regard to potential undue overlooking between Blocks A and B, it is noted that the submitted typical layout plan does not indicate the proposed balconies on the eastern elevation of Block A. The layout plans for both Blocks A and B indicate that there would be a c. 9m separation distance between directly opposing balconies. It is

my opinion that this concern could be addressed by omitting the balconies on the eastern elevation of Block A for units A-00-005, A-01-105, A-02-205, A-03-305, A-04-405, A-05-505, A-06-605 and A-07-705 and replacing the eastern elevation of the corner window of these units with obscure glazing or louvres and appropriate screening on the eastern elevation of the balconies serving these units.

- 10.3.9. There is a separation distance of c. 10m between the southern elevation of Block C and the northern elevation of Block D. Figure 42 of the applicants Architectural Design Statement indicates that the windows on the southern elevation of Block C would be fitted with translucent glass to restrict views and allow light in. I have no objection to the proposed design feature, however, in my opinion the provision of a louvre in lieu of translucent glass would also restrict views and result in a higher quality of residential amenity for future occupants. While the limited separation distances are noted as there are no directly opposing windows it is my opinion that the proposed layout would not result in any undue overlooking between Blocks C and D.
- 10.3.10. There is also a separation distance of c. 8m between the southern elevation of Block D and the northern elevation of Block E. It is proposed that the windows on the southern elevation of Block D would be fitted with translucent glass to restrict views and allow light in. As noted above, I have no objection to the proposed design feature, however, in my opinion the provision of a louvre in lieu of translucent glass would also restrict views and result in a higher quality of residential amenity for future occupants. While the limited separation distances are noted as there are no directly opposing windows it is my opinion that the proposed layout would not result in any undue overlooking between Blocks D and E.
- 10.3.11. The external materials of the scheme include light red brick, grey aluminium, dark grey aluminium cladding and white render. The use of high-quality materials is welcomed. However, I have concerns regarding the proposed use of significant portions of render which in my opinion is not durable materials, especially on the taller elements of the scheme. In this regard it is my view that brick and stone are a more appropriate external material. It is considered this could be addressed by way of condition.
- 10.3.12. The non-residential uses comprise a creche (438.6sqm) at the ground floor of Block A and a café (96.7sqm) at the ground floor of Block B. Concerns are raised by third

parties regarding the limited size of the non-residential uses. The proposed creche could accommodate c. 146no. children. Having regard to the nature of this site as a BTR scheme and the unit mix it is my opinion that the proposed creche is sufficient to accommodate the demand generated by the proposed scheme. Having regard to the proximity of this site to Dundrum Town Centre and Dundrum Village it is also my opinion that the proposed café unit is adequate to accommodate the demand generated by the proposed scheme and the adjacent developments. It is also considered that the location of the creche and the café, adjacent to the main site access via Wyckham Place would provide an appropriate active ground floor use and would enliven the streetscape. I am satisfied that an appropriate mix of non-residential uses have been provided within the scheme.

10.3.13. Section 8.2.3.3 (ii) of the development plan states that apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light. The applicants Planning Report stated that 45.4% of the units are dual aspect. Therefore, the quantum of dual aspect units does not comply with the development plan standard. The applicant has addressed the issue of dual aspect in the submitted material contravention statement.

10.3.14. While the scheme does not comprise 70% dual aspect units it is my opinion that this is not material contravention of Section 8.2.3.3 (ii) of the plan, as there is flexibility in the wording of the plan which states that a relaxation of the requirement may be considered on a case-by-case basis where an applicant can demonstrate that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light. It is noted that there are no north facing single aspect units and the daylight, shadow and sunlight assessment indicates that the scheme would have an 88.4% compliance with the BS8206 recommended target of 2% ADF for K/L/D rooms and 1 % ADF for bedrooms and a 97.3% compliance with the alternative target of 1.5% ADF for K/L/D rooms and 1% ADF for bedrooms. The information submitted indicates that rooms would be well

lit. I am satisfied that the applicant has endeavoured to maximise daylight and sunlight to the units. It is noted that no concerns were raised by the planning authority or third parties regarding a material contravention of the quantum of dual aspect units / section 8.2.3.3 (ii) of the plan.

10.3.15. However, concerns are raised by the planning authority and third parties regarding the applicant's definition of dual aspect. It is noted that many of the dual aspect units are demarcated as such due to a corner window. While neither the development plan nor section 28 guidance offer a definition of 'dual aspect'. The London Plan 2021 defines a dual aspect dwelling as '*one with openable windows on two external walls, which may be either on opposite sides of a dwelling or on adjacent sides of a dwelling where the external walls of a dwelling wrap around the corner of a building*'. Section 3 of the applicants Housing Quality Assessment provides details and illustrations of the proposed dual aspect units within the scheme. While it is noted that the majority of dual aspect units rely on corner windows it is considered that they are sufficiently large windows to provide for cross ventilation, a choice of views, improved access to daylight and a greater chance of direct sunlight for longer periods. Therefore, in my opinion that the corner windows are true dual aspect units and I have no objection to the stated percentage of dual aspect units within the scheme.

10.3.16. The planning authority have also raised concerns that the proposed development is not in accordance with SPPR4(ii) of the Apartment Guidelines which requires that in suburban or intermediate locations 50% of units to be dual aspect. Having regard to the site's location within the existing urban area, c.750m from Dundrum town centre and c. 1km from Dundrum Village and its proximity to high capacity and high frequency public transport in the form of bus and luas (as outlined above), it is my view that that proposed development is not located in a suburban or intermediate location and is located in a central and accessible location. Therefore, it is considered that the development is in accordance with SPPR4(i) which allows for a minimum of 33% of units to be dual aspect and in my view, this is appropriate in this instance.

10.3.17. The development plan also sets out a number of quantitative standards for apartment developments. In this regard Section 8.2.3.3 (vii) requires that all apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas. Table 8.2.2. requires a minimum floor area of

55sqm for a 1-bed unit, 85sqm – 90sqm for a 2-bed unit and 100sqm for a 3-bed unit. It is noted that the proposed unit sizes do not reach the minimum standards set out in the plan and that the applicant addressed and justified this in the submitted Material Contravention Statement. This is not a policy of the plan, and it is noted that the standard states that the minimum floor areas should accord with or exceed national standards. The Housing Quality Assessment notes that all proposed units reach and exceed the minimum standards for room sizes as set out in the Apartment Guidelines, which are 37sqm for a studio unit, 45sqm for a 10bedroom (2-person) units, 73sqm for a 2-bed (4-person) unit and 90sqm for a 3-bed (5-person) unit. Having regard to the wording of the plan it is my view that this is not a material contravention of the plan. In addition, it is considered that the proposed floor areas are sufficient to provide adequate amenity for future occupants and are appropriate at this urban location.

10.3.18. SPPR 8 (iv) of the Apartment Guidelines also notes that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes. It is considered that the floor areas of the apartments are in accordance with SPPR 8 of the Apartment Guidelines. Having regard to the BTR nature of the scheme I have no objection to the room sizes and consider them appropriate at this urban location.

10.3.19. Section 8.2.3.3 (v) relates to internal storage areas for apartments. It sets out a standard of 3sqm for 1-bed units, 7sqm for 2-bed units and 9sqm for 3-bed units. In general the internal layout complies with these standards, however, in some instances 6sqm of internal storage space is provided within some of the 2-bed units and, therefore, do not comply with the 7sqm internal storage standard. The applicant has addressed and justified this issue in the submitted material contravention statement. This is not a policy of the plan, and it is my view that sufficient storage space has been provided within each unit to ensure adequate amenity for future residents. The storage standards are also in accordance with the standards set out in the Apartment Guidelines of 3sqm for a studio or 1-bed unit, 5sqm for 2-bed unit (3 – person), 6sqm for a 2-bed unit (4-person) and 9sqm for 3-bed units. SPPR 8(ii) of the Apartment Guidelines also states that flexibility shall apply in relation to the provision of a proportion of the storage space associated with individual units on the basis of the provision of alternative, compensatory communal support facilities and amenities



within the development. It is also my opinion that a shortfall of 1sqm of internal storage space for a limited number of units does not constitute a material contravention of the development plan.

10.3.20. The internal layout provides for 7 to 14 no. units per lift core. This is considered to be in accordance with SPPR 8 which notes that the requirement for a maximum of 12 apartments per floor per core does not apply to BTR schemes, subject to overall design quality and compliance with Building Regulations.

10.3.21. The planning authority also raised concerns regarding the internal layout of the apartments with particular regard to access to bathrooms via bedrooms. However, it would appear that the bathrooms can also be accessed from the communal hallway and are not en-suite. Therefore, I have no objection to the proposed location and / or access to the bathrooms within the units.

10.3.22. Section 8.2.8.4 (iv) states that every apartment shall have direct access to its own area of private open space in the form of a balcony, winter garden or patio area. The minimum depth of balconies for all or most of their length should normally be 1.5m and be accessed from living rooms. Table 8.2.5 sets out minimum standards of 6sqm for a 1-bed unit, 8 sqm for a 2-bed unit and 10sqm for a 3-bed unit. Each apartment has a private balcony or terrace. The applicant's Planning Report states that all private open space has been provided in accordance with the Apartment Standards, which sets out a standard of 4sqm for a studio, 5sqm for a 1-bed 7sqm for a 2-bed and 9sqm for a 3-bed unit. It is noted that the proposed private amenity space for the studio, 1-bed and 2-bed units are in accordance with the standards set out in the Apartment Guidelines. However, the Housing Quality Assessment and the architectural drawings submitted indicate that the balconies for the 9 no. 3-bed units (located in Block C) are c. 7m in area, which is below the 9sqm set out in the apartment standards. It is noted that all balconies have a minimum width of 1.5m. It is acknowledged that in some instances the proposed private amenity space does not accord with the standards set out in Section 8.2.8.4 (iv) or in Appendix 1 of the Apartment Guidelines. However, it is noted that SPPR 8 of the Apartment Guidelines allows for flexibility with regard to private amenity space for BTR schemes. It is my opinion that sufficient private open space has been provided within each unit to ensure a high quality standard of residential amenity for future occupants and regard it also had to the high quality

communal and public open space and the variety of internal residential amenities and services proposed. However, as the Planning Report repeatedly references a provision of 9sqm of private amenity space per 3-bed unit, it is recommended that if permission is being contemplated that a condition be attached that the final details of the private open space for the 3-bed units be agreed with the planning authority.

10.3.23. The applicant has also addressed and justified this issue of private open space in the submitted material contravention statement. The standards set out in Section 8.2.8.4 (iv) and Table 8.2.5 are not policy of the plan, and it is my view that sufficient private open space has been provided within each unit to ensure adequate amenity for future residents. It is also my opinion that a shortfall for a limited number of units does not constitute a material contravention of the development plan.

10.3.24. SPPR 7(a) of the Apartment Guidelines requires the submission of a proposed covenant or legal agreement to ensure the scheme remains as a BTR for at least 15 years, this has been prepared and an appropriate condition should be attached.

10.3.25. In conclusion, having regard to the underutilised nature of this site, it is my view that the proposed development, subject to conditions outlined above, would result in the creation of a new distinct residential development which complements the historical architectural legacy of the Carmelite Centre with wider benefits, such as the delivery of a significant quantum of housing, the opening up of the site via connectivity to adjacent sites and Ballawley Park and would support the consolidation of the urban area. It is also considered that the proposed BTR scheme is in accordance with the provisions of SPPR8 of the Apartment Guidelines.

#### 10.4. **Height**

10.4.1. The proposed development ranges in height from 3 storeys (Block E) to 10 storeys (Block B). Policy UD6: Building Height Strategy requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. The Building Height Strategy is set out in Appendix 9 of the development plan. Section 4.8 of Appendix 9 sets out guidance in relation to height for 'Residual Suburban Area not included within Cumulative Areas of Control'. It states that a maximum of 3-4 storeys may be permitted for apartment developments in appropriate

locations, including prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes, providing they have no detrimental effect on the existing character and residential amenity. The development plan states that there will be situations where a minor modification up or down in height by up to two floors could be considered. Upward Modifiers apply where the development would (a) create urban design benefits, (b) provide major planning gain, (c) have civic, social or cultural importance, (d) the built environment or topography would permit higher development, without damaging the appearance or character of the area, (e) contribute to the promotion of higher densities in area with exceptional public transport accessibility and (f) the site is of a site of 0.5ha or more and could set its own context. Overall, the positive benefits of a development proposal would need to be of such a significance as to clearly demonstrate that additional height is justified.

10.4.2. The planning authority consider that the proposed development does not satisfactorily meet any of the criteria set out for an upward modifier. Having regard to the site's size (4.2ha), its location in the urban area, its potential to provide connectivity to adjacent sites, its proximity to public transport (as outlined above) and its potential to consolidate the urban environment it is my view that upward modifiers could be applied to an appropriately designed scheme on this site. Therefore, in my opinion a maximum of 6 no. storeys would be permissible on the site, without materially contravening the Building Height Strategy of the development plan. The proposed development has a maximum height of 10 storeys which is in excess of the 6 storeys permissible under the Building Height Strategy. The development, therefore, materially contravenes the development plan with respect to height. A material contravention statement was submitted, and the issue of material contravention is addressed below in Section 10.11.

10.4.3. The planning authority's first recommended reason for refusal considered that the proposed scheme fails to meet the criteria set out in Section 3.2 of SPPR 3 of the Building Heights Guidelines and that at neighbourhood / street level, the proposed development, would create a visually dominant and overbearing form of development when viewed the Protected Carmelite Centre lands, Parkvale and St. Tiernan's and as a result would significantly injure the residential and visual amenities of the area.

- 10.4.4. Concerns are also raised by third parties and An Taisce that the overall height provided within the scheme is excessive and would result in a development that is visually overbearing and obtrusive and, therefore, would not integrate into the existing character of the area.
- 10.4.5. The site is undulating with a level difference of c. 10m within the site. The level differences are clearly indicated within Section 02 – Existing Trees and Contours of the Landscape Design Report. Building B is the tallest building at 10 storeys. Block B is located at a low point within the site and has proposed ground level of c. 5m lower than the highest point on the site.
- 10.4.6. A Landscape and Visual Impact Assessment (LVIA) forms part of the EIAR (Chapter 10). It includes 15 no. verified views of the scheme from outside the scheme, A booklet of 12 no. additional photomontages have also been submitted from viewpoints within the site. The submitted views / photomontages provide a comparison of the existing site, the previously permitted scheme (currently subject to Judicial Review) and the proposed development. Third parties raised concerns that the submitted photomontages do not include views from Gort Mhuire. It is also noted that the third-party submission from BPS Planning and Development Consultants on behalf of Residents WBC Company Limited included existing views and photomontages from Wesley Lawns and Wesley Heights. I am satisfied that the applicants submitted photomontages provide a comprehensive and reasonable representation of how the proposed development would appear to allow for a full assessment of the potential impact. It is also noted that view 12 of the LVIA provides a view of the proposed development from the Carmelite Centre.
- 10.4.7. Section 10.9 of the EIAR provides an assessment of the visual impact of the development from the 15 no. viewpoints external to the site. There are 3 no. categories used to classify the 'effect types', in this regard Positive Effect, Neutral Effect and Negative Effect. In addition, there are 4 no. categories used to classify the 'effect categories', Substantial Effect, Moderate Effect, Slight Effect and No Perceived change. Details of these categories are provided within Chapter 10 of the EIAR. Of the 15 no. views assessed the applicant considers that the predicted impact of the proposed development would be moderate positive on 5 no. views, moderate neutral on 7 no. views, slight neutral on 2 no. views and no perceived change on 1 no. view.

Overall, the LVIA considers that the proposed development would have a moderate impact on the landscape at the local level by replacing an undeveloped vacant site with a large scale residential development which would contribute to the urban environment.

- 10.4.8. With regard to the concerns raised by third parties, it is noted that the existing adjacent residential properties (visual receptors) are more sensitive to change and that the value of that change is largely subjective. The site is locally elevated, and it is acknowledged that the blocks would be highly visible when viewed directly from the site boundaries and adjacent residential properties. It is also accepted that the proposed height is significantly taller than the existing adjacent buildings and would introduce new features in the skyline. However, I agree with the findings of the LVIA and consider that the proposed height would not significantly detract from the visual amenities of this urban area and would not be visually obtrusive. In my opinion the visual impact from short range views, would be generally positive due to the current vacant nature of the site, the high-quality contemporary design of the scheme and the transition in height with lower elements of the buildings located at the sites boundaries and the significant separation distances proposed. Concerns raised regarding the potential negative impacts on existing residential amenities from the proposed height are addressed below in Section 10.5.
- 10.4.9. The LVIA included 2 no. medium and long-distance views. View 10 is from Overend Avenue to the north of the site and View 11 is from the M50 overbridge to the south of the site. I also agree with the findings of the LVIA that the scheme would have a moderate positive from these viewpoints. It is my view that due to the urban location and the relatively large size (4.2ha) of the site it has the capacity to absorb the proposed height and scale of the blocks. In my opinion, the proposed height should also be viewed in the changing context of the environs of the site. It is, therefore, considered that the proposed development would have a minimal impact on the visual amenity of the environs when viewed from the middle or long distance views. It is also noted that the proposed buildings do not impact or impede any protected views.
- 10.4.10. Concerns are also raised by the planning authority that the proposed development would not be in accordance with the Urban Development and Building Heights Guidelines. Section 3.2 of the guidelines sets out criteria for assessing the scale of the

development with regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. Chapter 7 of the of the applicant's Planning Report (Statement of Consistency) assessed the proposed development against each of the criteria outlined in the Building Height Guidelines. Having regard to the information outlined above it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme, its contribution to the development of a serviced site and the consolidation of the urban area. The issues of compliance with the Building Height Guidelines is further addressed below in Section 10.11 Material Contravention.

10.4.11. In conclusion, having regard to the location, size and topography of the site and to the high-quality design and layout of the scheme, the changing character of the area with an established transition towards higher density residential development and the criteria set out in the Building Height Guidelines, I am satisfied that the proposed height is not excess in this instance and that the proposed development represents a reasonable response to its context.

## 10.5. ***Residential Amenity***

10.5.1. Concerns are raised by third parties and the planning authority that the scale and height of the proposed development would negatively impact the existing residential amenities in terms of overlooking, overshadowing and overbearing impact.

### *Overlooking and Overbearing Impact*

10.5.2. As noted above, the scheme comprises 5 no. urban blocks (Blocks A - E) centred around areas of communal and public open space. The blocks range in height from 3 - 10 storeys and vary in scale and massing to respond to the existing adjacent properties, with the taller buildings (Block B and C) located away from the existing properties in the central and northern portion of the site. A significant portion of public open space is provided at the site's eastern boundary which connects to Ballawley

Park. This public open spaces facilities a set back from the existing dwellings to the east (Parkvale) and south east (Wesley Heights and Wesley Lawns) of the site.

### Parkvale

- 10.5.3. Block B is staggered in height. The 6 storey element (19.8m in height) is located a minimum of 47m from the site's eastern boundary and a minimum 57m from the rear elevation of existing 2-storey dwellings at Parkvale. As the height of the block increases the separation distances also increase, with the 10 storey element located c. 70m from the site's eastern boundary and c.80m from the rear elevation of existing 2-storey dwellings at Parkvale.
- 10.5.4. Block C also has a staggered approach to height. The 7 storey element (24m in height) is located c. 90m from the site's eastern boundary and a minimum of c. 105m from the rear elevation of existing 2-storey dwellings at Parkvale. As the height of the block increases the separation distances also increase, with the 9 storey element located c. 110m from the site's eastern boundary and c.125m from the rear elevation of existing 2-storey dwellings at Parkvale.
- 10.5.5. The planning authority raised particular concerns regarding the potential negative impact of Block B on the existing residential amenities of properties in Parkvale. While it is acknowledged that the overall scheme would be visible from Parkvale, it is my opinion that due to the orientation of the blocks which prevents direct overlooking, the significant separation distances, and the staggered approach to building heights the proposed development would not result in undue overlooking or overbearing impact on existing 2-storey dwellings in Parkvale.

### Wesley Heights

- 10.5.6. The 7 storey element (24m in height) of Block C is located c.46m from the site's southern boundary and a minimum of c. 68m from the gable / side elevation of existing 2-storey dwellings at Wesley Heights. As the height of the block increases the separation distances also increase, with the 9 storey element located c. 60m from the site's southern boundary and c.78m from the gable / side elevation of existing 2-storey dwellings at Wesley Heights.

- 10.5.7. Block D also has a staggered approach to height. The 6 storey element (c. 19m in height) is located c. 38m from the site's southern boundary and a minimum of c. 55m from the gable / side elevation of existing 2-storey dwellings at Wesley Heights. As the height of the block increases the separation distances also increase, with the 7 storey element (24m in height) located c. 60m from the site's southern boundary and c.78m from the gable / side elevation of existing 2-storey dwellings at Wesley Heights.
- 10.5.8. The gable / side elevation of existing dwellings in Wesley Height are located a minimum of 135m from the 10 storey element proposed in Block B and c. 80m from the 9 storey element in Block C. While it is acknowledged that the overall scheme would be visible from Wesley Heights, it is my opinion that due to the orientation of the blocks and the existing dwellings which prevents direct overlooking, the significant separation distances and the staggered approach to building heights the proposed development would not result in undue overlooking or overbearing impact on existing 2-storey dwellings in Wesley Heights.

Wesley Lawns

- 10.5.9. The 6 storey element (c. 19m in height) of Block D is located c. 30m from the site's southern boundary and a minimum of c. 45m from the gable / side elevation of existing 2-storey dwellings at Wesley Lawns. As the height of the block increases the separation distances also increase, with the 7 storey element (24m in height) located c. 53m from the site's southern boundary and c.68m from the gable / side elevation of existing 2-storey dwellings at Wesley Heights.
- 10.5.10. Block E also has a staggered approach to height. The 3 storey element (c10.6m) is located c. 13m from the site's southern boundary and a minimum of 23m from the rear elevation of existing 2-storey dwellings at Wesley Lawns. As the height of the block increases the separation distances also increase, with the 5 storey element (17m) located c. 24m from the site's southern boundary and c.35m from the rear elevation of existing 2-storey dwellings at Wesley Heights.
- 10.5.11. The rear / side elevation of existing dwellings in Wesley Lawns are located a minimum of 155m from the 10 storey element proposed in Block B and c. 95m from the 9 storey element in Block C. While it is acknowledged that the overall scheme would be visible



from Wesley Lawns, it is my opinion that due to the relatively limited height of Block E, the separation distances, the orientation of the proposed blocks and the existing houses and the staggered approach to building heights the proposed development would not result in undue overlooking or overbearing impact on existing 2-storey dwellings in Wesley Lawns.

*Carmelite Dormitory Block*

10.5.12. Concerns are raised by the planning authority that the scheme, in particular Blocks C and D would result in development that was overbearing and dominant over of the Carmelite Centre.

10.5.13. A 3 storey building (Building 08 / dormitory) in the Carmelite Centre is located to the west of the subject site. The information submitted states that this building accommodates a library use at ground floor and 28 no. bedrooms on the first and second floor. These bedrooms are used by residents and visitors. There are no living areas or kitchenettes located on these floors.

10.5.14. Block C, which is 9 storeys in height, is located a minimum of c. 15m from the site's western boundary with Building 08 / dormitory block and a minimum of c. 26m from the eastern elevation of the existing building. Block D, which is 6 – 7 storeys in height, is located a minimum of c. 10m from the site's western boundary and a minimum of c. 22.7m from the western elevation of the existing building.

10.5.15. It is acknowledged that the proposed scheme would be highly visible from building 08 / dormitory block. However, having regard to the existing uses within Building 08 / dormitory block and the separation distances provided between the existing and proposed buildings, it is my view that the proposed scheme is an appropriate scale and height would not result in an overbearing impact of undue overlooking of the Carmelite Centre. It is also noted that a letter of support from the Carmelite Order was submitted with the application. The concerns raised regarding the potential impact of the proposed development on the protected structures within the Carmelite Centre is addressed below in Section 10. 6 Built Heritage.

10.5.16. Overall, it is my opinion that the proposed separation distances between the blocks and the existing buildings achieves a balance of protecting the residential amenities

of future and existing occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces. In my view that proposed scheme would not result in undue overlooking or result in an overbearing impact on any existing properties.

### ***Daylight, Sunlight and Overshadowing***

10.5.17. 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.

10.5.18. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following documents:

- 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;
- EN17037 Daylight in Buildings

10.5.19. I have considered the reports submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011), the BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting and the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK).

*Internal Daylight and Sunlight*

10.5.20. 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 BS8206 – Part 2 sets out recommended targets for Average Daylight Factor (ADF), 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.

10.5.21. The proposed apartment layouts include a combined living/kitchen/dining (LKD) room. As these rooms serve more than one function the 2% ADF value was applied to the LKD rooms. The information submitted indicates that of the 531 no. LKD rooms, 386 no. or 73% of these rooms achieve the minimum recommended ADF target of 2% for LKD. With regard to the alternative ADF target of 1.5% for LKD rooms the information submitted indicates that of the 531 no. LKD rooms only 34no. (6.4%) do not achieve an ADF target of 1.5%. Appendix A of the Report provides detailed information for each room assessed. It is noted that the minimum ADF achieved for any LKD in the scheme is 1.22%. All bedrooms in the developments achieve a minimum ADF of 1%.

10.5.22. A breakdown for each block indicates that in Block A 4 no. units fall below the 2% target with all units achieving an ADF of above 1.5%. In Block B 47 no. units fall below the 2% target with 42 no. achieving an ADF of above 1.5%, therefore, 5 no. units achieve an ADF of below 1.5%. In Block C 52 no. units fall below the 2% target with 43 no. achieving an ADF of above 1.5%, therefore, 9 no. units achieve an ADF of below 1.5%. In Block D 28no. units fall below the 2% target with 14 no. achieving an

ADF of above 1.5%, therefore, 14 no. units achieve an ADF of below 1.5%. In Block E 14 no. units fall below the 2% target with 8 no. achieving an ADF of above 1.5%, therefore, 6 no. units achieve an ADF of below 1.5%.

10.5.23. Overall, with regard to both LKD rooms and bedrooms, the scheme has an 88.4% compliance with the recommended target of 2% for LKD rooms and 1 % for bedrooms and a 97.3% compliance with the alternative target of 1.5% for LKD rooms and 1% for bedrooms.

10.5.24. It is acknowledged that in a scheme of this nature it is significantly challenging for large open plan living / kitchen / dining rooms to achieve 2% ADF and it is my opinion that an ADF of 1.5% is adequate for the intended living / dining room space, as it indicates that these spaces would enjoy good daylight amenity. I would also note that in such urban schemes there are challenges to meet the alternate 1.5% ADF in all instances, and to do so would unduly compromise the design / streetscape. The ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant has endeavoured to maximise sunlight/daylight to the apartments and where possible achieve 2% ADF.

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

10.5.26. With regard to compensatory design solutions it is noted that Blocks C and D, which have the higher level of K/L/D room areas falling below 2% AD, directly open to the communal open space areas and have been provided with larger private terrace areas to enhance their environment. The report also notes that the orientation of the buildings has been designed to ensure that most apartments have a westerly,

southerly or easterly aspect. There are no single aspect north facing apartments proposed. 45.4% of the apartments are dual aspect and glazing has been increased to maximise daylight. The internal layouts have also been designed to locate the kitchen/living spaces in the best location to maximise daylight within the space. The assessment notes that a number of modifications were made to the layout of the apartments to achieve the higher pass rate on ADF, in this regard in some instances window widths were extended, orientations were amended, balconies were repositioned, some floor areas were reduced to allow more lighting into the space and projecting windows were incorporated to allow for increased daylight.

- 10.5.27. As noted, there are some shortfalls in daylight provision within the scheme for kitchen/living/dining rooms. The full extent of the shortfalls of the 2% ADF can be ascertained from Appendix A of the Daylight and Sunlight Assessment. I am satisfied that all of the rooms would receive adequate daylight and having regard to the need to development sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions and alternative target is appropriate.
- 10.5.28. Section 5 of the report also carried out an alternative assessment of daylight availability within the proposed apartments according to European standard EN17037:2018 – Daylight in Buildings. This assessment concluded that 83.12% of Kitchen/Living spaces and 96.4% of bedrooms assessed meet the criteria outlined in the European Standard.
- 10.5.29. The BRE Guidelines also recommend that the centre of at least one window to a main living room can achieve 25% of An Annual Probable Sunlight Hours (APSH), including at least 5% in the winter months for relevant windows, in this regard relevant windows are windows orientated 90 degrees of due south. Section 7.1 of the assessment provides illustrations the annual and winter ABSH assessment. While no detailed numerical assessment has been provided the illustrations indicate that units on the applicable main living room windows would achieve good annual and winter APSH and appear reasonably well lit.

- 10.5.30. Having regard to the information submitted I am satisfied that all of the rooms within the scheme would receive adequate daylight and sunlight and that the shortfalls are not significant in number or magnitude. I would also note, that in urban schemes there are challenges in achieving the recommended standards in all instances, and to do so would unduly compromise the design / streetscape.
- 10.5.31. 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 the amenity areas should receive at least 2 hours of sunlight on 21<sup>st</sup> March. Section 8.1 of the applicant's assessment provides illustrations of the sunlight assessment of the communal amenity space for the proposed development. While no detailed numerical assessment has been provided the illustrations indicate that at least half of the area of the outdoor amenity spaces analysed, would receive at least 2 hours of sunlight, in line with the BRE recommendations. This indicates that the areas of open space provided within the scheme would receive good quality access to sunlight.

### ***External Daylight, Sunlight and Overshadowing***

- 10.5.32. Third parties have raised concerns that the proposed development would result in a loss of light for existing properties. The Daylight, Shadow and Sunlight Impact Report assessed the potential impact of the development at neighbouring residential properties, in this regard Gort Mhuire Building 08 / Dormitory Block, Parkvale, Wesley Heights and Wesley Lawn. The applicant notes that St. Tiernan's Community School and the Walled Garden site are excluded from the assessment as they are not within the area impacted by the proposed development. Having regard to the orientation, separation distances and height of the proposed development this is considered to be a reasonable assumption.
- 10.5.33. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a windows) within a structure. The BRE guidelines state that if the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value occupants of the existing building would notice the reduction in the amount of skylight.

*Carmelite Centre*

- 10.5.34. Section 6.2 of the report states that 44 no. of 118 no. windows fail to achieve a VSC of greater than 27% and experience more than 20% reduction than its former VSC value. Appendix D indicates that 128 no. windows were assessed in Building 08 / Dormitory Block with 42 no. windows failing to achieve a VSC of greater than 27%. A minimum VSC of 19.3%
- 10.5.35. The windows below the recommended standard of 27%, would receive a VSC of between 19.3% and 26.6%. It would appear from the information submitted that the loss of light is generally limited to the 3 storey block (Building 08 / Dormitory Block) in the Carmelite Centre. The applicant has stated that this building accommodates a library use at ground floor and 28 no. bedrooms on the first and second floor. These bedrooms are used by residents and visitors. There are no living areas or kitchenettes located on these floors. I agree with the applicant's assessment that these rooms at upper floor levels are not reliant on substantial daylight and would be mainly occupied during night time and rely on electric lighting. In addition, the ground floor library / work areas are not permanent habitable spaces and the applicant states that their current use relies heavily on electric lighting. This would continue to apply to the use with the proposed development in place. All relevant windows assessed met the recommended criteria for annual and winter APSH. Therefore, it is considered that the rooms would receive adequate sunlight.
- 10.5.36. While it is acknowledged that the proposed development would impact on the VSC for the existing Building 08 / Dormitory Block, it is my opinion that this development should be viewed in the wider context of the development of the subject site and the consolidation of the urban area. It is also noted that the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions the Board 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. Therefore, having regard to the wider benefits such as the delivery of housing and the development of this serviced and urban site, it is my view that the impact on the Carmelite Centre is considered acceptable. It is also noted that no submission has been received from the Carmelite

Order raising any objection to the proposed development and that a letter of support is provided with the application.

*Parkvale*

10.5.37. The assessment also analysed the impact on 11 no. existing houses in Parkvale ( no. 16 – 26), located to the east of the site. Of the 71 no. windows assessed 65 no. would achieve a VSC of at least 27%. Of the remaining 6 no. windows the reduction in VSC is less than 0.8 times its former value. It is considered that the proposed development would have a negligible impact VSC for existing adjacent properties in Parkvale, and, therefore, would not result in undue overshadowing of existing properties. All windows assessed met the recommended criterion for annual and winter APSH. It is considered that the rooms would receive adequate sunlight.

*Wesley Heights and Wesley Lawns*

10.5.38. The assessment analysed the impact on 4 no. houses in Wesley Heights (numbers 18, 19, 41 and 42) and 11 no. houses ( no. 19 – 29) in Wesley Lawns located to the south of the site. Of the 73 no. windows assessed (19 no. windows in Wesley Heights and 54 no. windows in Wesley Lawns) 4 no. windows would not achieve a VSC of at least 27%. In this regard 2 no. windows at 42 Wesley Heights, 1 no. window at 24 Wesley Lawn and 1 no. window at 27 Wesley Lawn. However, the reduction in VSC for these 4 no. windows is less than 0.8 times its former value. It is considered that the proposed development would have a negligible impact on VSC for existing adjacent properties in Wesley Heights and Wesley Lawn, and, therefore, would not result in undue overshadowing of existing properties. Wesley Heights and Wesley Lawns were not assessed for APSH as the relevant windows in these houses are more than 90 degrees from due south.

10.5.39. The report also assessed the impact of the development on the amenity spaces of the adjacent properties. The BRE guidelines recommend that at least half of the amenity areas should receive at least 2 hours of sunlight on 21<sup>st</sup> March. If as a result of a new development an existing garden or amenity area does not meet this standard and the area which can receive 2 hours of sun is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. The applicant's analysis assessed the impact of the development on amenity spaces assessed associated with Gort Mhuire and



residential properties at Parkvale and Wesley Heights and Wesley Lawns. Garden and Open spaces situated outside the Carmelite Centre and private amenity spaces associated with house at Parkvale and Wesley Heights and Wesley Lawns continue to receive at least 2 hours of sunlight on 21 March and, therefore, the development is in compliance with the BRE's 2011 guidance.

### *Conclusion*

- 10.5.40. As outlined above the proposed development does not achieve all of the standards set out in the BRE, with particular regard to the 2% ADF for some of the K/L/D rooms within the proposed scheme and the impact on VSC for Building 08 / Dormitory Building in the Carmelite Centre. The Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution. Throughout the Daylight and Sunlight Report the applicant has provided a clear rationale for alternative and compensatory design solutions. The information provided indicates that access to daylight and sunlight formed an integral part of the design approach and that the design team endeavoured to maximise sunlight/daylight within the scheme and ensure a minimal impact on existing adjacent properties.
- 10.5.41. While it is noted that the scheme does not achieve all recommended standards, it is considered that this development results in wider planning benefits, such as the delivery of a significant quantum of housing, connectivity through the site, a high quality public open space and the comprehensive development of an underutilised serviced site in the urban area, which would support the consolidation of the urban environment. Therefore, the shortfalls outlined above are considered acceptable in this instance.

## **Noise and Nuisance**

10.5.42. Concerns are raised by third parties that the provision of outdoor amenity space at the 9<sup>th</sup> floor level / roof level of Block B would result in unacceptable noise and nuisance for existing residents. The proposed roof terrace is located a minimum of 78m from the nearest existing residential dwelling at Parkvale. It is my view that having regard to the proposed separation distances and to the nature of this development, which is a professional managed scheme, that the level of noise or nuisance generated would not have a negative impact on the existing residential amenities. However, to safeguard the existing amenities of the area it is recommended that the hours of operation of the terrace be restricted and controlled by the management company. It is, therefore, my recommendation that a condition be attached to any grant of permission that the applicant agree the hours of operation of the terraces with the Planning Authority.

## 10.6. **Built Heritage**

10.6.1. Architectural Heritage is addressed in Chapter 15 of the EIAR. The site was in use as an agricultural field that originally formed part of lands within the ownership of the Carmelite Order. It was fenced off and was never formally landscaped as part of the attendant grounds of the main complex of buildings. The Gort Muire (RPS ref. 1453) is located to the west of the subject site. The protected structure comprises Water Gardens, Garden Walls and Farm Building Complex, House, Ornamental Ironwork, Conservatory and Water Tower. Figure 15.1 of the EIAR indicates the location of the protected structures on the adjoining site. There are no protected structures within the subject site.

10.6.2. Gort Muire is a historic house, built in 1870, and referred to as 'Gortmore' on historic maps. Blocks D and E are located c. 70m to the rear (west) of the house and Block A is located c. 80m to the side (north) of the house. Gort Muire house is located on elevated lands. The house is angled away from the application site with views west toward the formal gardens and ponds and away from the subject site.

10.6.3. The EIAR notes that during the mid-late 20<sup>th</sup> century, the Carmelites embarked on an extensive building programme adding a series of substantial buildings, to provide a Chapel, sleeping accommodation, a library and refectory. I agree with the applicant's

assessment that the house is shielded from the development site by these additions, in particular the dormitory building (Building 08) which was constructed in alignment with the eastern boundary of the site (the subject sites western boundary) which provides enclosure to the protected gardens, garden features and historic landscaping of the house.

- 10.6.4. The planning authority and An Taisce consider that photomontages from the water gardens and from the house should have been submitted. It is noted that photomontages from within the gardens or house have not been submitted. However, having carried out a site visit it is my opinion that due to the significant slope of the formal gardens away from the house and the sylvian nature of the gardens that any views of adjacent lands (including the subject site) from the formal gardens and artificial lake are restricted. With regard to views from the house it is my opinion that due to the location of the 3-storey dormitory block (building 08) to the rear (west) of the house that views from the house towards the subject site are restricted. I am satisfied that the photomontages submitted allow for a full assessment of the impact on the existing protected structures within the Carmelite complex.
- 10.6.5. The planning authority acknowledge that the protected structure has already been impacted due to permitted development along Wyckham Avenue, however, it is considered that the proposed development would further impact the setting of the protected structure. The planning authority consider the proposed development to be excessive and overbearing and would detract from the character and setting of the protected structure. The submission from An Taisce considers that the scale of the proposed development is excessive, and there would be an overbearing impact with a likelihood of overlooking from the upper storeys of apartments towards Gort Muire house. It is noted that third parties have also raised concerns regarding the impact of the proposed development on the Carmelite Centre.
- 10.6.6. It is acknowledged that the height and scale of proposed development is significantly larger than the Gort Muire house and gardens and that the proposed development would be visible from the protected structure. This is evident in the submitted photomontages of the scheme which I considered to be a reasonable representation of how the development would appear. However, it is my opinion that the proposed

scheme represents a high-quality contemporary development which provides a clear distinction from the protected structure.

- 10.6.7. Having regard to the separation distances between Gort House and formal gardens and the proposed development, the topography of both sites, the siting of existing buildings within the Carmelite Centre which are orientated away from the subject site, the extensive additions to the Carmelite complex which provides a physical buffer between the two sites and to the high quality contemporary design of the proposed scheme it is my view that while the development would be visible from the Gort Muire site it would not have an overbearing impact or negatively impact on the special character of the protected structure.
- 10.6.8. As outlined above in Section 10.5 I have some concerns regarding undue overlooking between Blocks A and B, C and D and Blocks D and E and in my opinion increased separation distances between these blocks would not only improve residential amenity for future occupants. While the protection of the built heritage within the Carmelite Centre is not reliant on greater separation distances between the blocks it is my view that greater separation distances would provide additional views towards and from the Carmelite Centre which would enhance the open character and would have a positive benefit for the protected structure.
- 10.6.9. The protected structure also includes the walled garden, farm buildings and the water tower. The walled garden and derelict farm buildings are located to the north west of the subject site and are in separate ownership. Construction is currently underway on this site for an apartment development (ABP-307545-20). I am satisfied that the proposed development would not impact on the setting or character of these existing features.
- 10.6.10. The 19<sup>th</sup> Century Water Tower is a folly. It is located outside of the subject site, to the west of the proposed main access to the site from Wyckham Avenue. The tower's visual connection to the original house at Gort Muire and formal gardens was extinguished when the 1950's buildings were constructed. The EIAR notes that the tower itself is of some architectural significance and is unique in its composition on this part of the site.

10.6.11. The submission from An Taisce acknowledges that the setting of the water tower has been compromised by the extensions to the Carmelite Centre, however, it is considered that the access roadway is too close to the water tower and that the proposed Blocks would have a dominant and overbearing effect on the protected structure. Third parties also raised concerns that the proximity of the water tower to the sites access would have a negative impact on its setting and character. The water tower is located in a lower lying portion of the overall Carmelite complex and as noted above is visually removed from the Gort Muire House and formal gardens. It is currently located adjacent to a surface car park and access road. Having regard to its current setting, surrounded by 20<sup>th</sup> century buildings and a surface car park, away from the house and formal gardens it is my opinion that the proposed access to the development would not detract from the significance of the water tower structure and would enhance the setting and character of the water tower and provide a visual marker at the entrance to the scheme.

10.6.12. In conclusion, the proposed development would have no physical impact on the built fabric of the protected structures. Any potential effects are limited to visual impacts. In this regard it is acknowledged that the proposed development would alter the setting of the Gort Muire House and water tower. However, due to the siting of existing 1930's – 1960's buildings within the Carmelite Centre, in particular the dormitory block (Building 08), to the separation distances between the Gort Muire house and the proposed development, the topography of both sites, and to the high quality contemporary design of the proposed scheme, which in my opinion provides an appropriate contrast to the existing historic buildings, it is considered that while the scheme would be highly visible from the Gort Muire house it would not detract from the setting or character of the protected structure. With regard to the water tower structure, it is my view that the proposed development would enhance the setting and character of this feature and that it provide a visual marker at the entrance to the scheme. As outlined above it is my opinion that the proposed development would have a negligible impact on the setting and character of the formal gardens of Gort Muire or the Walled Garden.

## 10.7. ***Housing Tenure and Unit Mix***

### Tenure

- 10.7.1. The proposed development comprises 531 no. Build to Rent apartments. Concerns are raised by third parties regarding the tenure of the proposed development. The applicant submitted a Demand, Operations and Resident Amenity Overview which notes that there is an acute shortage of homes in Ireland to meet population growth projections, particularly in high employment urban areas such as Dublin. The report further notes that the Dundrum-Sandyford Electoral Division has a higher proportion of residents in private rented accommodation and living in apartments than the county and State averages, which indicates a strong demand for a BTR apartment development in the area.
- 10.7.2. The report included a high-level audit of the BTR stock in Dublin. It is stated that the Dublin rental market currently consists of 6 no. completed BTR developments at Clancy Quay, Islandbridge; Sandford Lodge, Ranelagh; Capital Dock; Mount Argus, Harold's Cross; Quayside Quarter, Docklands; and Fernbank, Dundrum. It is noted that Fernbank comprises 261 no. BTR units and is located c. 1km north of the subject site. The other 5 no. BTR developments are located throughout the city at a significant distance to the subject site. Therefore, it is my opinion that proposed development would not contribute to an overprovision of BTR apartments within the Dundrum area or wider environs.
- 10.7.3. From a site visit carried out on the 27<sup>th</sup> February 2022 and a search of relevant planning history for the area it would appear that the majority of the housing stock in the wider area comprise traditional houses with a limited number of privately managed / build to sell apartments at Wyckham Place and Wyckham Point located to the west of the site and within Dundrum Village to the north of the site. While it is acknowledged that the scheme itself does not provide a mix of tenures it is my opinion that the proposed Build to Rent tenure contributes to a greater variety of accommodation types in the area. It is noted that the planning authority raised no objection to the proposed tenure.
- 10.7.4. Chapter 5 of the Apartments Guidelines notes that *'a key aspect of the BTR is its potential to accelerate the delivery of new housing at a significantly great scale than*

*at present*'. Therefore, the provision of a BTR development would deliver a higher volume of units for the private rental sector over a shorter timeframe. Having regard to government policy to provide more housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland additional housing units are welcomed.

10.7.5. Having regard to the site's location in close proximity to large employment and education centres, services and facilities within Dundrum Town Shopping Centre, Sandyford Industrial Estate and the UCD campus which are large employers in the area. The site is c. 1km from Balally Luas stops and is also proximate to a number of Dublin Bus routes which provide connections across the city, it is my view that the proposed Build to Rent scheme is appropriate in this instance as it would provide an additional housing tenure in the wider area, which is professionally managed and would support the provision of long-term residents.

10.7.6. SPPR 7(a) requires the submission of a proposed covenant or legal agreement to ensure the scheme remains as a BTR for at least 15 years, this has been prepared and an appropriate condition should be attached.

#### Unit Mix

10.7.7. Policy RES7 aims to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures are provided within the County. In addition, Section 8.2.3.3 (iii) of the development plan notes that apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80sqm.

10.7.8. The proposed development comprises 531 no. units with a mix of 28 no. studios (5%), 297 no. 1 bed units (56%), 197 no. 2 bed units (37%) and 9 no. 3 bed units (2%). The applicant addressed the issue of unit mix in the Material Contravention Statement and considers that the proposed mix accords with the provisions of SPPR8 of the Apartment Guidelines, which does not apply any restrictions to the mix of units in BRT schemes. The applicant also notes that the proposed development would be located

on a site that is predominantly surrounded by large, family housing and would provide a new type of housing mix into the area.

- 10.7.9. The planning authority acknowledge the provisions of SPPR 8 of the Apartment Guidelines, however, they consider that the provision of a greater number of 3-bed apartments on the site would support the creation of a sustainable residential community in accordance with RES7. No objection was raised by the planning authority regarding a material contravention to the mix or type of units proposed.
- 10.7.10. The scheme comprises c. 61% of studio and 1-bed units, which it is acknowledged does not comply with Section 8.2.3.3 (iii) of the development plan. However, it is my opinion that this is not material contravention of as there is flexibility in the wording of the plan, which states that it schemes '*should generally comprise*' and that the proposed development is in accordance with the overall aim of the standard to provide a mix of units to cater for different size households. It is also my view that there is flexibility in the wording of Policy RES3 to '*encourage*' a wide variety of housing and apartment types, sizes and tenures within the county. Therefore, it is considered that the provision of studio, 1, 2 and 3 bed apartment units in an area that is generally characterised by low density 3, 4 and 5 bedroom suburban housing would be in accordance with the provisions of RES 7 to encourage a variety of housing and apartment types and sizes in the county.
- 10.7.11. The applicants Demand, Operations and Resident Amenity Overview Report considers that due to changing demographics and a reduction in household sizes, there is a need for a different mix and unit typology in new developments with a higher percentage requirement for smaller unit sizes. In my opinion the proposed scheme would contribute to the variety of accommodation types and sizes in the area which are predominately characterised by larger family size houses. Therefore, I have no objection to the unit mix.
- 10.7.12. It is noted that Policy RES7 also encourages a mix of housing tenures and Appendix 2: Interim Housing Strategy states that a 10% social housing requirement will be applied in relation to all sites that are residentially zoned. It is proposed to provide 53 no. Part V units are proposed representing c.10% of the overall units in the scheme in accordance with the provision of Objective HS1. It is my view that the provision of 53



no. social and affordable apartment units in an area would be in accordance with the provisions of RES 7 to encourage a variety of housing tenures in the county.

10.7.13. In addition, the Affordable Housing Act, 2021 requires that land purchased on or after the 1<sup>st</sup> of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both. The documentation submitted indicates that this site was purchased in 2019 and, therefore, the 20% Part V requirement does not apply in this instance.

10.7.14. Having regard to the above, it is my opinion that the proposed unit mix and tenure is appropriate at this location to serve the proposed development and is in accordance with the provision of the development plan and would not be a material contravention of the Policy RES 7 or Section 8.2.3.3 (iii) of the development plan.

#### 10.8. ***Transportation***

10.8.1. The subject site is located c. 750m south of Dundrum Town Centre, c. 1km south of Dundrum Village Main Street and c. 7km south of Dublin city centre. Access to the development is from a private road Wyckham Avenue via Wyckham Way (public road). Wyckham Way has a footpath and contra-flow cycle track on the eastern side of the road. Wyckham Avenue has a 6.5 metre carriageway, cycle paths and footpaths on either side of the road. It is a cul-de-sac that provides access to 2 no. apartment complexes, Wyckham Point and Wyckham Pac, the Walled Garden apartment development (currently under construction), 3 no. Traveller Accommodation dwellings and the Carmelite Centre.

10.8.2. There is a high-quality footpath and cycle network in the immediate vicinity of the site. As noted above the site is served by high capacity and high frequency public transport in the form of both bus and Luas, with bus stops on both sides of Wyckham Way within 400m of the site and the Balally Luas Stop located c. 1km east of the site. It is my view that this is a highly accessible urban site within close proximity to a variety of services and amenities.

- 10.8.3. The Traffic and Transport Assessment (TTA) assessed the Wyckham Way roundabout and includes the potential traffic generated by the Walled Garden site, which will also access onto the roundabout. The analysis found that the Wyckham Way roundabout would be at capacity (RFC 85% in the PM peak) for the Design Year 2030 including for the Walled Garden development. Without the development the roundabout would reach capacity (RFC 87% in the PM peak) by 2040. The analysis also notes that the roundabout would reach capacity (RFC 85%) at the weekend peak by 2030 with or without the development. I would agree with the applicants TTA (Section 10.30) which states that in urban areas a certain level of congestion is to be expected during peak times and that the Wyckham Roundabout has suitable capacity to cater for the proposed development within the norms of a busy urban environment.
- 10.8.4. Concerns are raised by third parties that there is insufficient capacity on the surrounding road network to accommodate the number of vehicular trips generated by the proposed development. The concerns raised regarding the capacity of the surrounding road network are noted. However, having regard to the information submitted, which is evidence based and robust, it is my opinion that the proposed development would have a negligible impact on the capacity of the surrounding road network. The submissions from TII and the planning authority raised no objections to the impact of the proposed development on the capacity of the road network. It is also noted that the NTA were consulted, and no submission was received.

#### *Car Parking*

- 10.8.5. The scheme includes the provision of 171 no. car parking spaces, including 3 no. drop off spaces. This equates to 0.3 no. spaces per unit. Concerns are raised by third parties that the proposed level of car parking within the site is insufficient and would result in overspill and haphazard car parking on the surrounding road network.
- 10.8.6. The planning authority considered that more car parking provision is required in the subject suburban location in order to ensure that the development is not reliant on parking provision / car storage within the adjoining area. The planning authority's third recommended reason for refusal considered that having regard to the suburban location of the site the proposed development would by reason of the inadequate number of car parking spaces provided to serve the future occupants and visitors to

the development, result in car parking overspill on surrounding residential roads which would seriously injure the amenities of properties in the vicinity of the site.

10.8.7. Table 8.2.3 of the development plan sets out car parking standards for apartments of 1 no. space per 1 bed unit, 1.5 no. spaces per 2-bed units and 2 no. spaces per 3-bed unit + (depending on design and location). Therefore, there is a requirement for 638.5 no. car parking spaces. It is noted that the applicant has stated that the proposed car parking provision would be a material contravention of the development plan and submitted a material contravention statement in this regard. Section 8.2.4.5 of the development plan states that the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site. Reduced car parking standard for any development may be acceptable subject to a number of criteria including the location of the site and its proximity to a town centre and high density commercial / business district; the proximity to public transport; nature and characteristics of the development, availability of on-street car parking; implementation of a travel plan and other special circumstances.

10.8.8. The Apartments Guidelines (2020) also state that in intermediate urban locations, close to public transport or close to town centres or employment centres a reduction of overall car parking standards must be considered, and an appropriate standard applied. SPPR 8 (iii) of the Apartment Guidelines also notes 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. The planning authority noted standards set out in the Apartment Guidelines, however, it is considered that the proposed reduction in car parking has not been justified.

10.8.9. The subject site is located c. 600m from the Ballinteer neighbourhood shops which provides a range of local shops, c.750m (10 minutes' walk) from the Dundrum Town Centre and c. 1km from Dundrum village which provide a wide range of shopping facilities, restaurants, a library, banks, and other services and leisure facilities, which

combined result in a vibrant area. The Beacon Hospital and the employment hub of Sandyford is just over 1km to the east and UCD is located c. 2.8km north of the subject site. This site is located in an area well served by high capacity and high frequency public transport. Full details of the sites accessibility by public transport are provided in Table 2-1 and Figure 2-1 of the submitted Mobility Management Plan. In particular it is noted that the site is located within 400m of 2 no. bus stops on Wyckham Way. These stops are served the number 14, which links Dundrum to Artane via the city centre and the number 175 which is an orbital route linking UCD and Citywest. Both the no. 14 and the 175 are high frequency routes with a stated maximum frequency of every 10 minutes in the peak periods (source: [www.transportforireland.ie](http://www.transportforireland.ie) and [www.dublinbus.ie](http://www.dublinbus.ie)) and each bus has a capacity of 125 no. passengers. The site is also located within 750m of the Balally Luas Stop. Luas is a high capacity mode of public transport (408 no. passengers per tram) and operates at a frequency of 3-4 minutes in the peak. The proposed development comprises a professionally managed Build to Rent Scheme with 28 no. dedicated car club parking spaces. It is considered that 1 no. car sharing vehicle could replace up to 15 no. private cars. A Mobility Management Plan was submitted with the application which notes that a mobility manager would be appointed to implement the measures outlined in the plan. It is my view that the proposed scheme is in accordance with the provisions of Section 8.2.4.5 of the development plan and the provisions of the Apartment Guidelines and that a reduction of car parking is permissible in this instance.

10.8.10. While the concerns of the third parties and the planning authority are noted it is my view that having regard to the nature of the development as a professionally managed BTR scheme, the site's urban location, its proximity a range of services and amenities, and the sites proximity to public transport I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the surrounding road network.

10.8.11. The planning authority also raised concerns regarding the location of 10 no. visitor car parking spaces in Block B is not considered convenient to all blocks. Block B is located in the northern portion of the site. Having regard to the relatively limited size of the

overall site I have no objection to the location of the visitor spaces and consider them to be within a reasonable distance of all residential units.

10.8.12. The development plan sets out a car parking standard of 1 no. space per staff member, including set down for a creche facility. It is intended that the proposed creche at the lower ground floor of Block A would accommodate 146 no. children. It is proposed to provide 3no. dedicated creche drop-off spaces located outside Block A and no dedicated staff spaces. The concerns of the third parties and the planning authority regarding the quantum of car parking provision for the childcare facility are noted. However, it is my view that having regard to the limited size of the facility it would mostly likely serve the proposed development and apartments / houses within the immediate vicinity of the site and, therefore, would not generate a significant number of vehicular trips. In addition, having regard to the urban location which is well served by public transport I have no objection to no car parking provision for staff.

10.8.13. The planning authority also consider that a set down area for deliveries should also be provided. It is noted that a turning area is provided between Blocks A and B and to the front of Block E with an internal access route running along the site's western boundary with the Carmelite Centre. It is my view that there is sufficient space along this access route and within the turning areas to accommodate short stay deliveries and servicing requirements of the scheme. It is also noted that this is a BTR scheme which would be professionally managed, therefore, it is a reasonable assumption that all larger deliveries and servicing of the units would be co-ordinated and managed.

#### *Cycle Parking*

10.8.14. A total of 1,012 no. cycle parking spaces will be provided consisting of 746 no. long term cycle parking spaces and 266 no. short term cycle parking spaces. The development plan requires the provision of 637 no. spaces, in this regard 1 no. long term space per unit and 1 no. short term space per 5 no. units. Therefore, the proposed quantum of spaces is significantly in excess of the development plan standards and is also in compliance with the standards set out in the Apartment Guidelines. The Traffic and Transport Assessment notes that the requirement for further cycle parking provision would be addressed as part of the mobility management operation procedure.

10.8.15. Concerns are raised by the planning authority regarding the provision of stacked visitor cycle parking spaces. The Landscape Layout plan submitted indicates the proposed location of bicycle parking at ground floor level. It is my opinion that sufficient and accessible visitor / short term spaces have been provided within the scheme.

*Construction Traffic*

10.8.16. Construction access to the site will be from Wyckham Avenue via Wyckham Way, utilising the existing access to the site. This access will be managed in accordance with an agreed Construction & Environmental Management Plan (CEMP). I have no objection to the proposed construction access arrangements and note that they are similar to the access arrangements for the Walled Garden site currently under construction.

*Permeability*

10.8.17. The planning authority and third parties raised concerns regarding a missed opportunity for connectivity between the scheme and St. Tiernan's Community School, immediately north of the site. The planning authorities fifth recommended reason for refusal considered that the proposed development failed to maximise permeability and connectivity for pedestrians and cyclists through the provision of a direct route from Greenmount Lane to Ballawley Park to St. Tiernan's Community College and ultimately the Slang Greenway and as a result is considered premature.

10.8.18. Third parties also raised concerns regarding the potential negative impacts of additional pedestrian and cycle connectivity to existing residential estates to the east of the subject site.

10.8.19. The proposed scheme includes 3 no. future pedestrian / cycle access, in this regard one connection would be provided at the site's northern boundary with St. Tiernan's Community School which would also facilitate access onto Parkvale. As outlined above it is proposed to remove all existing boundaries with Ballawley Park, to provide an open permeable landscape at the site's eastern boundary. An area of Ballawley Park has been provided within the red line boundary and a letter of consent to the inclusion of the lands is provided by Dun Laoghaire Rathdown County Council. It is proposed to provide an additional pedestrian / cycle access at the site's southern boundary with Wesley Lawns and Greenmount Lane. It is noted that all future

connectivity is subject to the agreement of third parties (Department of Education and Dun Laoghaire Rathdown County Council). However, it is noted that the layout includes a footpath / cycle route up to the site boundaries which would facilitate future access. While the concerns of the third parties are noted, it is my opinion that the provision of additional connectivity is welcomed.

10.8.20. The River Slang Greenway as indicated on the planning authority's website ([www.dlrcoco.ie](http://www.dlrcoco.ie)) is located to the north of the River Slang, c. 250m north of the subject site. The potential future links indicated on the drawings submitted would provide connectivity from Ballawley Park, through the site and towards St. Tiernan's Community School grounds, which would ultimately connect with the River Slang Greenway to the north of the school. The applicants Planning Report notes that ultimately this connection is subject to approval of the Department of Education. It would appear from the information submitted that the applicant has made significant attempts to improve connectivity within and through the site and proposed to significantly open up the site. Therefore, I consider that it would be inappropriate to refuse permission on this ground.

#### 10.9. ***Water Services and Flood Risk***

10.9.1. The applicants Engineering Planning Report notes that there is an existing 225mm foul water sewer on Wyckham Avenue to the west of the site and a 225mm foul water sewer on Parkvale to the east of the site. It is proposed that the foul sewer will discharge by gravity to the sewer on Wyckham Avenue. The submission from Irish Water confirmed that a wastewater connection to the public network is feasible and is not subject to any upgrades.

10.9.2. The applicants Engineering Planning Report notes that there is an existing 160mm watermain on Wyckham Avenue to the west of the site and 24" cast-iron watermain runs through the Saint Tiernan's Community School to the north of the site. It is proposed to connect to the existing network on Wyckham Avenue. The submission from Irish Water confirmed that a water connection to the public network is feasible and is not subject to any upgrades.

10.9.3. The applicants Engineering Planning Report notes that there is an existing 225mm surface water sewer on Wyckham Avenue to the west of the site and a 225mm surface

water sewer on Parkvale to the east of the site. A new surface water sewer network would be provided for the proposed development which would discharge by gravity to the existing sewer on Wyckham Avenue. Surface water runoff from the development would be managed using a combination of SuDS features and traditional drainage, such as gullies and pipes. SuDS features include green roofs, permeable paving, infiltration trenches, tree root systems, and attenuation tanks and petrol interceptor. I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts and that the concerns raised by the planning authority could be addressed by way of condition. Many of the proposed SuDS will provide potential for amenity and biodiversity. The planning authority raised no concerns regarding the proposed surface water proposals.

- 10.9.4. In conclusion, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts.

*Flood Risk*

- 10.9.5. The OPW maps indicate that the subject site is located within Flood Zone C. There is no record of historic flooding on the site. A Site-Specific Flood Risk Assessment (FRA) was submitted which considered the potential sources of flooding and mitigation measures.

**Coastal Flooding:** There is no risk associated with coastal flooding for this site as general ground levels for the site are much higher than expected extreme coastal flood levels.

**Fluvial Flooding:** The Wyckham Stream and the Slang River which are tributaries of the Dodder River are within 400m of the site. Due to the elevated nature of the site there is no risk of fluvial flooding to the site.

**Pluvial Flooding:** The historical and predicated flooding information does not indicate that the subject site is at risk from pluvial flood events. Any runoff generated within the site will be addressed by the provision of Stormwater Infrastructure associated with the proposed development. Additionally, the proposed drainage network would be designed for the 100-year return period plus a minimum of 10% climate change allowance.



**Groundwater Flooding:** The site is not considered to be at risk from groundwater flooding.

10.9.6. Having regard to the sites location in Flood Zone C and to the information submitted, which is robust, and evidence based, I am satisfied that the proposed development would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified. It is also noted that no concerns were raised by third parties of the planning authority regarding flood risk.

#### 10.10. **Other Issues**

##### *Consultation*

10.10.1. I note that some of the submissions received state that there was inadequate/lack of meaningful consultation with them by the applicants. It is noted that while meaningful consultation may be to the benefit of both parties, there is no statutory requirement to undertake such engagement.

##### *Public Health*

10.10.2. Many of the submissions received refer to the presence of Covid-19 and the ability of the proposed development to operate safely in such circumstances. The management of the proposed facility in such circumstances, or similar circumstances, will be a matter for the applicants to address, in light of public health advice pertaining at that time.

##### *SHD Process*

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

### *Inconsistencies*

10.10.4. It is noted that there are some inconsistencies in the information provided. Third parties raised concerns that some documentation referenced the previously proposed development on the site and not the current scheme. While these inconsistencies are noted, they are considered to be minor and do not affect the outcome of my recommendation. I am satisfied that there is adequate information on file to allow for a comprehensive assess the proposed development

### 10.11. **Material Contravention**

10.11.1. The applicant's Material Contravention Statement considered that the proposed development would materially contravene the Dun Laoghaire Rathdown Development Plan 2016 - 2022 with regard to the following: -

- The 'INST' (Institutional) designation, open space and tree protection
- The 'INST' (Institutional) designation and density
- The 'INST' (Institutional) designation and masterplan
- Car Parking
- Building Height
- Quantitative Apartment Standards: Dual Aspect, Unit mix, unit size, storage, private amenity space, and separation between blocks

10.11.2. The applicants Material Contravention Statement submitted with the application addresses and provided a justification for these material contraventions.

### 10.11.3. ***The 'INST' (Institutional) designation, open space and tree protection***

Sections 2.1.3.5 and 8.2.3.4(xi) of the Development Plan state that '*A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands*'. Section 8.2.8.2 states that for all developments with a residential component of 5+ units there is a requirement of 15sqm - 20 sqm of Open Space per person based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or

fewer bedrooms. It is noted that Section 8.2.3.3 (xi) does not differential between public, communal or private open space.

The proposed development has a total area of c. 4.2 ha. The scheme comprises c. 1.9ha of open space (c. 1.2 ha public and c. 0.7 ha communal) which equates to c. 45% of the total site area. The proposed quantum of open space, therefore, significantly exceeds the 25% standard set out in section 2.1.3.5.

With regard to the requirements set out under Section 8.2.8.2, the scheme comprises 531 no. units with 28 no. studios, 297 no. 1 beds, 197 no. 2 -beds and 9 no. 3-beds. Therefore, there is a requirement for 1.2ha (15sqm per person) or 1.6ha (20 sqm per person). The proposed development provides c.1.9 ha of open space and is, therefore, in excess of the requirements set out in Section 8.2.8.2.

It is noted that Sections 2.1.3.5 and 8.2.3.4(xi) refer to the “total site area”. In this regard, the overall site area is considered to comprise adjacent lands at the Carmelite Centre which are also subject to the Institutional Lands designation. The subject site in combination with the Carmelite Centre site has a total area of c.5.4ha. The Carmelite Centre includes extensive formal and natural landscaped grounds with an estimated area of c. 1 ha. When combined with the gross open space provision proposed in the subject site (c.1.9 ha), the total provision across the Institutional Designation lands would be c.2.9ha. This represents over 54% of the overall lands which are subject to the INST objective as open space. I am, therefore, satisfied that the quantum of open space is in accordance with both Section 2.1.3.5 and Section 8.2.3.4(xi) of the development plan.

Policy RES5 states *‘Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.’* Section 2.1.3.5 also requires that the provision of open space to be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features.

As noted above the site incorporates a large area of public open space (c. 12,347 sqm) at eastern portion of the site which would connect to Ballawley Park. The Landscape Design Report notes that public open space for the scheme is proposed as an open permeable landscape without boundaries. It is my opinion that the removal of the existing boundary between the site and Ballawley park significantly improves the open character of the site. It is proposed that formal tree planting would be provided at the sites boundaries, and it is proposed that parkland trees will merge into the public and courtyard spaces with a number of specimen trees adding to overall character. Woodland planting will define and screen boundaries adding to the overall character of the site and the walking routes around and through it creating ecological corridors to link into the surrounding context.

The scheme also includes communal open space (6,976sqm). The areas of communal open space are linked adjacent to the public open space. However, they would be physically separated by boundary hedges and / or walls. While the communal open space is separated from the public open space having regard to its proximity to the public open space and public walkways between the blocks it is my opinion that it adds to the open character of the site.

The Landscape Design Report also notes that the scheme would include a variety of boundary treatments which respond to context. The existing walls at the entrance to the site would be removed to create a sense of openness and permeability and to facilitate a new service road. The western boundary would in part comprise a 2m high solid random rubble wall with hedge planting either side and in part comprise a 2m high black mesh fence with 2m high planting either side. The southern boundary with Wesley Heights comprises existing walls. This would be retained and supplement this with a 2m black mesh fence built to the proposed developments. The northern boundaries with St Tiernan's School and dwellings in Parkvale would be retained and supplementary screen planting.

The EIAR also notes that a masonry wall defines a portion of the south-east boundary. This wall is partially concealed by vegetation and forms part of a ditch and traditional field boundary. It is proposed that a detailed study of all such historic walled boundaries would be carried out after the clearance of vegetation to assess the condition and composition of the wall and to inform an appropriate conservation

strategy for its consolidation and to secure its future protection within the proposed scheme.

The Arboricultural Assessment notes that there are currently 139 no. individual trees on the subject site and that the central portion of the site, which is to be developed, is devoid of valuable trees. Of the 139 no. trees 1 no. is category A (excellent), 51 no. are category B (good quality), 65 no. are category C (poor quality) and 24 no. are category U (unsustainable). It is proposed to remove 53 no. trees, which includes 6 no. category B (good quality), 27 no. category C (poor quality) and 20 no. category U (unsustainable). The applicant notes that some category U trees are being retained as they are located on the red line boundary and their removal would require the approval of a third party. The landscaping proposals includes 746 no. new trees, which accounts for a net gain for 711 no. trees. While it is acknowledged that the scheme would result in the loss of 6 no. category B trees it is my view that the design and layout of the scheme has been cognisant of the existing trees on the site and has allowed for the retention of the majority of the high-quality (category A and B) trees.

Having regard to the quantity and quality of the open space proposed within the scheme and the overall institutional landholding, the urban nature of the site and the lack of existing publicly available open space within the overall institutional landholding and within the subject site, I am satisfied that the open nature of these institutional lands is being retained and expanded. Therefore, it is my view that the proposed development is in accordance with Section 8.2.8.2, Section 2.1.3.5 and Policy RES5 and would not represent a material contravention of the development plan.

#### **10.11.4. *The 'INST' (Institutional) designation and density***

Section 2.1.3.5 Institutional Lands establishes a density range of 35 - 50 units per ha for institutional lands. In certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. The density range is reflective of the standards set out in 'Sustainable Residential Development in Urban Areas' (2009) and it is noted that Policy RES 3 Residential Density of the development plan states that regard should be had to the guidelines. I am satisfied that Section 2.1.3.5 and Policy RES 3 allow for higher density where a development contributes towards the

objective of retaining the open character and/or recreational amenities of the lands. As noted above, significant public open space is proposed as part of this development which will ensure the “open character” of the lands is achieved, and crucially this open space will also be accessible to the wider community for the first time and will integrate with the adjoining Ballawley Park. Therefore, it is my opinion that the proposed density is not a material contravention. It is also noted that the planning authority consider that the scheme to be in accordance with Policy RES5: Institutional Lands and compliant with the sites Institutional Objective (outlined in Section 2.1.3.5). However, while I do not consider the proposed density to be a material contravention, for completeness and responding to the precautionary approach adopted by the applicant the issue of a material contravention of density is addressed and justified below.

#### **10.11.5. *The ‘INST’ (Institutional) designation and masterplan***

Section 8.2.3.4(xi) Institutional Lands of the development plan further states that in order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. A Masterplan was submitted with the application and includes an overall site layout plan for the subject site and provides references to the adjacent Carmelite centre which is also subject to the INST objective and the sites relationship with surrounding land uses. While the masterplan has not been approved by the planning authority it is noted that the planning authority raised no objection to the content of the masterplan. Therefore, I am satisfied that the proposed development is in accordance with the requirements of Section 8.2.3.4 (xi), and the submitted masterplan is not a material contravention of the development plan.

#### **10.11.6. *Car Parking***

Table 8.2.3 of the development plan sets out car parking standards for apartments of 1 no. space per 1 bed unit, 1.5 no. spaces per 2-bed units and 2 no. spaces per 3-bed unit + (depending on design and location). Therefore, there is a requirement for 638.5 no. car parking spaces. The scheme includes the provision of 171 no. car parking spaces, including 3 no. drop off spaces. This equates to 0.3 no. spaces per unit which is below the standard set out in the development plan.

The development plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including the location

of the site and its proximity to a town centre and high density commercial / business district; the proximity to public transport; nature and characteristics of the development, availability of on-street car parking; implementation of a travel plan and other special circumstances.

- The subject site is located c. 600m from the Ballinteer neighbourhood shops with its range of local shops and chemist, c.750m (10 minutes' walk) from the Dundrum Town Centre and c. 1km from Dundrum village both of which provide a wide range of shopping facilities, restaurants, a library, banks, and other services and leisure facilities, which combined result in a vibrant area. The Beacon Hospital and the employment hub of Sandyford is just over 1km to the east and UCD is located c. 2.8km north of the subject site.
- Site is well served by public transport. Full details of the sites accessibility by public transport are provided in Table 2-1 and Figure 2-1 of the submitted Mobility Management Plan. In particular it is noted that the site is located within 400m of 2 no. bus stops on Wyckham Way. These stops are served the number 14, which links Dundrum to Artane via the city centre and the number 175 which is an orbital route linking UCD and Citywest. Both the no. 14 and the 175 are high frequency routes with a stated maximum frequency of every 10 minutes in the peak periods (source: [www.transportforireland.ie](http://www.transportforireland.ie) and [www.dublinbus.ie](http://www.dublinbus.ie)) and each bus has a capacity of 125 no. passengers. The site is also located within 750m of the Balally Luas Stop. Luas is a high capacity mode of public transport (408 no. passengers per tram) and operates at a frequency of 3-4 minutes in the peak.
- The proposed development comprises a professionally managed Build to Rent Scheme
- The scheme includes 28 no. dedicated car club parking spaces. It is considered that 1 No. car sharing vehicle could replace up to 15 private cars.
- A Mobility Management Plan has been submitted with the application which notes that a plan coordinator would be appointed to ensure the implementation of the measures outlined in the plan.

Having regard to the above it is my view that the proposed scheme is located in an area that is suitable for a reduction in car parking as outlined in Section 8.2.4.5 of the

development plan and, therefore, would not be a material contravention. It is also noted that car parking standards do not relate to a policy of the development plan.

#### **10.11.7. Building Height Strategy**

The proposed development ranges in height from 3 storeys (Block E) to 10 storeys (Block B). Policy UD6: Building Height Strategy requires that developments 'adhere to the recommendations and guidance set out within the Building Height Strategy for the County'. The Building Height Strategy is set out in appendix 9 of the Development Plan. Section 4.8 of Appendix 9 of the Development Plan sets out guidance in relation to height for 'Residual Suburban Area not included within Cumulative Areas of Control'. It states that a maximum of 3-4 storeys may be permitted for apartment developments in appropriate locations, including prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes, providing they have no detrimental effect on the existing character and residential amenity. The development plan states that there will be situations where a minor modification up or down in height by up to two floors could be considered. Upward Modifiers apply where the development would (a) create urban design benefits, (b) provide major planning gain, (c) have civic, social or cultural importance, (d) the built environment or topography would permit higher development, without damaging the appearance or character of the area, (e) contribute to the promotion of higher densities in area with exceptional public transport accessibility and (f) the site is of a site of 0.5ha or more and could set its own context. Overall, the positive benefits of a development proposal would need to be of such a significance as to clearly demonstrate that additional height is justified.

Having regard to the site's size (4.2ha), its location in the urban area, its potential to improve the public realm and consolidate the urban environment it is my view that upward modifiers could be applied to an appropriately designed scheme on this site. Therefore, a maximum of 6 no. storeys would be permissible on the site without materially contravening the Building Height Strategy of the development plan. The proposed development has a maximum height of 10 storeys which is in excess of the 6 storeys permissible under the Building Height Strategy. The development, therefore, materially contravenes the development plan with respect to height. The issue of a material contravention of height is addressed and justified below.



#### 10.11.8. **Quantitative Apartment Standards:**

##### Dual Aspect

Section 8.2.3.3 (ii) of the development plan states that apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light.

The scheme comprise 45.4% dual aspect units and, therefore, does not comply with the development plan standard. While the scheme does not comprise 70% dual aspect it is my opinion that this is not material contravention of Section 8.2.3.3 (ii) of the plan, as there is flexibility in the wording of the plan which states that a '*relaxation*' of the requirement may be considered on a case-by-case basis where an applicant can demonstrate that habitable rooms of single aspect units will be adequately served by natural light and/or innovative design responses are used to maximise natural light.

It is noted that there are no north facing single aspect units proposed within the scheme. The submitted Daylight, Shadow and Sunlight Assessment indicates that the scheme would have an 88.4% compliance with the recommended BS8206 target of 2% ADF for K/L/D rooms and 1 % ADF for bedrooms and a 97.3% compliance with the alternative target of 1.5% ADF for K/L/D rooms and 1% ADF for bedrooms. This indicates that rooms would be well lit. Therefore, I am satisfied that the requirements of Section 8.2.3.3 (ii) are satisfied, and the submitted masterplan is not a material contravention of the development plan. It is noted that no concerns were raised by the planning authority or third parties regarding a material contravention of dual aspect standards / section 8.2.3.3 (ii) of the plan.

##### Unit Mix

Section 8.2.3.3 (iii) of the development plan notes that apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80sqm. Policy RES7 aims to encourage the

establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures are provided within the County.

The proposed development comprises 531 no. units with a mix of 28 no. studios (5%), 297 no. 1 bed units (56%), 197 no. 2 bed units (37%) and 9 no. 3 bed units (2%). The scheme comprises c. 61% of studio and 1-bed units and, therefore, does not comply with Section 8.2.3.3(iii) of the development plan. However, it is my opinion that this is not material contravention as there is flexibility in the wording of the plan, which states that it schemes '*should generally comprise*' and as the scheme is located in an area predominantly surrounded by large, family houses it is my view that this development would support a variety of housing types in the area. Therefore, in my opinion the proposed development is in accordance with the overall aim of the standard to provide mix of units to cater for different size households.

It is also considered that there is flexibility in the wording of Policy RES3 to '*encourage*' wide variety of housing and apartment types, sizes and tenures within the county. It is my view that the provision of studio, 1, 2 and 3 bed apartment units in an area that is generally characterised by low density, 3, 4 and 5 bedroom suburban housing would be in accordance with the provisions of RES 7 to encourage a variety of housing and apartment types and sizes in the county.

Therefore, I am satisfied that the requirements of Section 8.2.3.3 (iii) and RES 7 are satisfied, and the proposed unit mix is not a material contravention of the development plan. It is noted that no concerns were raised by the planning authority or third parties regarding a material contravention of the plan regarding unit mix.

#### Unit Size / Floor Area

Section 8.2.3.3 (vii) requires that all apartment developments shall accord with or exceed the prescribed National Guidelines for minimum overall apartment floor areas. Table 8.2.2. requires a minimum floor area of 55sqm for a 1-bed unit, 85sqm – 90sqm for a 2-bed unit and 100sqm for a 3-bed unit. It is noted that the proposed unit sizes do not reach the minimum standards set out in the plan.

A Housing Quality Assessment was submitted with the application which notes that all proposed units' range in size from 38.6sqm studio to a 95.5sqm 3-bed unit which

exceed the minimum standards for room sizes as set out in the Apartment Guidelines, which are 37sqm for a studio unit, 45sqm for a 10bedroom (2-person) units, 73sqm for a 2-bed (4-person) unit and 90sqm for a 3-bed (5-person) unit.

Section 8.2.3.3 (vii) is a standard and is not a policy of the plan, and it is noted that the standard states that the minimum floor areas should accord with or exceed national standards. Having regard to the wording of the plan it is my view that this is not a material contravention of the plan as the proposed units reach or exceed the standards set out in the Apartment Guidelines. It is my opinion that this is not material contravention of the development plan and that the proposed floor areas are adequate to ensure a high quality standard of residential amenity for future occupants. It is also noted that this relates to a standard of the plan and is not a policy.

#### Internal Storage

With regard to internal storage space, Section 8.2.3.3 (v) requires 3sqm for 1-bed units, 7sqm for 2-bed units and 9sqm for 3-bed units. In some instances the 2-bed units have been provided with 6sqm of internal storage space and, therefore, do not comply with the standard of 7sqm per unit. However, having regard to the minor difference between the standard set out in the plan (7sqm) and in some instances the proposed storage area of 6sqm for some 2-bed units it is my opinion that this is not material, and that sufficient storage space has been provided within each unit to ensure a high quality standard of residential amenity for future occupants. It is also noted that this relates to a standard of the plan and is not a policy.

#### Private Amenity Space

Section 8.2.8.4 (iv) states that every apartment shall have direct access to its own area of private open space in the form of a balcony, winter garden or patio area. The minimum depth of balconies for all or most of their length should normally be 1.5m and be accessed from living rooms. Larger balconies should be assessed in terms of overshadowing of other units and other visual impacts. Above ground floor units shall also have access to semi-private/communal and other open amenity spaces. No balconies shall overhang the public footpath. Table 8.2.5 sets out minimum standards of 6sqm for a 1-bed unit, 8 sqm for a 2-bed unit and 10sqm for a 3-bed unit.

Each apartment has a private balcony or terrace. The Planning Report states that all private open space has been provided in accordance with the Apartment Standards, which sets out a standard of 4sqm for a studio, 5sqm for a 1-bed 7sqm for a 2-bed and 9sqm for a 3-bed unit. It is noted that the proposed private amenity space for the studio, 1-bed and 2-bed units are in accordance with the standards set out in the Apartment Guidelines. However the Housing Quality Assessment and the drawings submitted indicate that the balconies for the 9 no. 3-bed units (located in Block C) are c. 7m in area. It is noted that all balconies have a minimum width of 1.5m.

It is acknowledged that in some instances the proposed private amenity space does not accord with the standard set out in Section 8.2.8.4 (iv). However, it is my opinion that this is not material, and that sufficient private open space has been provided within each unit to ensure a high quality standard of residential amenity for future occupants. It is also noted that this relates to a standard of the plan and is not a policy.

#### Separation Between Blocks

Section 8.2.3.3 (iv) of the development plan states that all proposals for residential development, particularly apartment developments and those over three storeys high the minimum clearance distance of circa 22m 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.

It is acknowledged that in some instances the proposed separations distances do not accord with the standard set out in Section 8.2.3.3 (iv). However, this is not a policy of the plan.

The separation distances between the proposed blocks and the existing adjacent properties all exceed 22m. However, the separation distances between the proposed blocks do not in all instances reach or exceed 22m. The subject site is located within the urban area, and it is my opinion that the proposed separation distances between the blocks and the existing buildings achieves a balance of protecting the residential amenities of future and existing occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected

spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces. Having regard to the flexibility in the wording which notes that *in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable* it is my opinion that the proposed separation distances are not a material contravention of the development plan.

#### 10.11.9. **Section 37(2)(b)**

Having regard to the above it is my opinion that the proposed development materially contravenes Policy UD6: Height and Section 2.1.3.5 Institutional Lands (Density) of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, only.

Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* 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 the 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.

#### 10.11.10. **Section 37 (2) (b)(i)**

The subject site has an area of c. 4.2ha and would deliver 531 no. residential units in the urban area of Dundrum. The site's urban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government

policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The site is also located in close proximity to high frequency and high capacity public transport, educational and employment hubs and a range of services and facilities within Dundrum. It is, therefore, considered that this scheme is strategic by reason of its location and scale, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

10.11.11.        **Section 37 (2) (b)(iii)**

The proposed material contravention to the **Height** provision is justified by reference to: -

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

The proposed material contravention to the **Density** provision is justified by reference to: -

- Objective 35 of the National Planning Framework which supports increased residential densities at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.
- RPO 5.4 and RPO 5.5 of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourage the provision of higher densities and the consolidation of Dublin and suburbs.

While the material contraventions of the development plan relate to separate elements, as outlined above, it is my opinion that the issues of height and density are

inextricably linked and justified in some instances by the same national guidance, in particular the National Planning Framework and Urban Development and Building Heights Guidelines. Therefore to avoid repetition, it is my opinion that it is appropriate to address both issues of height and density in the context of the relevant guidance below.

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. National Policy Objective 13 states that's that in urban areas, planning and related standards, including in particular building height, 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 35 states that 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.

The NPF further states that although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposal. In particular, general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc. A more dynamic performance-based approach appropriate to urban location type will also enable the level of public transport service to improve as more development occurs and vice-versa.

The Regional Spatial and Economic Strategy (RSES) is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through

the creation of healthy and attractive places to live, work, visit and study in. The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, 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. Regional Policy Objective 5.4 states that future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'. Regional Policy Objective 5.5 states that future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

The Building Height Guidelines are intended "*to set out the national planning policy guidelines on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework*". It is further noted that statutory development plans have set generic maximum heights across their functional areas and if inflexibly or unreasonably applied "*can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area*". Section 2 refers to Building Heights and the Development Plan. It states 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.

The history of the surrounding sites is also relevant to the proposed height strategy. In this regard the Walled Garden site (ANB 307545-20) located immediately north west of the subject site has a height of 6-storeys. In addition, Wyckham Point and Wyckham



Place to the west of the subject site with frontage onto Wyckham Way range in height from 5 – 8 storeys, which exceeds the Development Plan threshold of 6-storeys.

SPPR 1 of the Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

As outlined above in my planning assessment I am of the opinion that this particular area can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting with the taller units located away from the site's sensitive boundaries with existing 2-storey houses at Parkvale and Wesley Heights and Wesley Lawns. The number (531) of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area with substantial amenities including locations with good public transport accessibility

Furthermore, having regard to the c. 4.2ha size and to the configuration of the site, it is my opinion that the site has the capacity to absorb increased heights and densities over those prescribed in the Development Plan.

Section 3 of the Height Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights to the east are 2-storeys in height.

The Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights. I have provided a response below each principle.

- 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?*

**Response:** Yes – the development and regeneration of this underutilised, infill greenfield site within the urban area would support national strategic objectives to deliver compact growth.

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?*

**Response:** No - the blanket height limits applied in the Dun Laoghaire Development Plan 2016 -2022 predates the Guidelines (2018) and, therefore, has not taken clear account of the requirements set out in the Guidelines.

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?*

**Response:** No - it cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

Section 3 of the Height Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Taking each point in turn as detailed in this section 3.2 of the Guidelines with reference to the bullet points therein, I conclude:

*Scale of Relevant city/town:*

- Site is well served by high capacity and high frequency public transport. Full details of the sites accessibility by public transport are provided in Table 2-1 and Figure 2-1 of the submitted Mobility Management Plan. In particular it is noted that the site is located within 400m of 2 no. bus stops on Wyckham Way. These stops are served the number 14, which links Dundrum to Artane via the city centre and the number 175 which is an orbital route linking UCD and Citywest. Both the no. 14 and the 175 are high frequency routes with a stated

maximum frequency of every 10 minutes in the peak periods (source: [www.transportforireland.ie](http://www.transportforireland.ie) and [www.dublinbus.ie](http://www.dublinbus.ie)) and each bus has a capacity of 125 no. passengers. The site is also located within 750m of the Balally Luas Stop. Luas is a high capacity mode of public transport (408 no. passengers per tram) and operates at a frequency of 3-4 minutes in the peak.

- A Landscape and Visual assessment has been carried out as part of the EIAR and has been addressed throughout the report. I am satisfied that there will not be an unacceptable impact.
- Proposal makes a positive contribution to place-making by virtue of new public spaces within the c. 4.2ha site, using massing, scale and height to achieve required densities but with sufficient variety and height as has been done with the range of block heights and it responds to the scale of adjoining developments, with respect to the taller buildings being located towards the centre.

*Scale of district/neighbourhood/street:*

- Design has responded to its overall natural and built environment and makes a positive contribution with the location of the taller block (Block B) in the low lying section of the site, the placement of parking below ground floor level and the provision of significant areas of public open space and high quality public realm.
- It is not monolithic – it is 5 blocks of varying heights.
- It enhances a sense of scale and enclosure having regard to the passive surveillance of areas of open space as a result of the design and layout of the blocks.
- Enhances legibility with 3 no. additional pedestrian / cycle routes through the site being made available.
- The proposed creche and café units positively contributes to the mix of uses. The non-residential uses will be available to the wider community and there is a sufficient mix of typology – studio, 1, 2 and 3 bedroom units.
- A Site Specific Flood Risk Assessment was submitted which indicates that the site is located in Flood Zone C and that the scheme would not result in a potential flood risk within the site or to any adjoining sites.

*Scale of site/building:*

- A Wind Microclimate Study and a Daylight, Shadow and Sunlight Report have been submitted demonstrate access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents. Details of which are included in my planning assessment above.

The Specific Assessments required to support the proposal referred to in section 3.2 of the Guidelines include micro-climatic assessment, interaction with birds and bat flight lines and/or collisions, telecommunications, air navigation, urban design statement, and relevant environmental assessments. These assessments have been carried out in the reports and EIAR submitted by the applicant as required by SPPR 3 below.

SPPR 3 of the Guidelines states (of note 3A is of relevance in this instance): It is a specific planning policy requirement that where; (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

Having regard to my assessment above which takes account of the documents submitted by the applicant, I am satisfied that the applicant has set out how the development proposal complies with the criteria SPPR 3(A)(1) and having regard to SPPR 3(A)(2) with respect to wider strategic and national policy parameters as referenced throughout this report, I am satisfied that the criteria have been complied with.

Having regard to the provisions of the National Planning Framework, the Regional Spatial and Economic Strategy and the Building Height Guidelines and to the setting of this site with respect to public transport, its size (4.2ha), and in particular the local infrastructure I am satisfied that it is a suitable site for increased height and density without giving rise to any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact. I am satisfied that, having regard to the fact that the

Development Plan predates the Building Height Guidelines by c. 2 years and that this proposal is in accordance with the National Planning Framework objectives to deliver compact growth in urban areas and in accordance with the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 to encourage the provision of higher densities and the consolidation of Dublin and suburbs, that in accordance with Section 37(2)(b)(iii) it is open to the Board to grant permission for the development as a material contravention of the Development Plan.

#### 10.11.12. **Conclusion**

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to materially contravene Policy UD6 (Height) and Policy RES5 (Density) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would be justified in this instance under sub sections (i) and (iii) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Midlands, and the Urban Development and Building Heights Guidelines.

#### 10.12. **Chief Executive's Recommendation**

10.12.1. As noted above the planning authority recommended that permission be refused for 5 no. reasons. In the interest of clarity, the reasons for refusal are addressed below.

#### 10.12.2. **Height**

The planning authority's first recommended reason for refusal considered that the proposed height fails to meet the criteria set out in Section 3.2 of the Building Heights Guidelines and that at neighbourhood / street level, the proposed development, would create a visually dominant and overbearing form of development when viewed the Protected Carmelite Centre lands, Parkvale and St. Tiernan's and as a result would significantly injure the residential and visual amenities of the area.

Section 3 of the Height Guidelines describes information that the applicant should submit to demonstrate that it satisfies certain criteria at the scale of the relevant

city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Chapter 7 of the of the applicant's Planning Report (Statement of Consistency) assessed the proposed development against each of the criteria outlined in the Building Height Guidelines. Having regard to the information outlined above in my assessment it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme, its contribution to the development of a serviced site and the consolidation of the urban area and its proximity to high capacity and high frequency public transport in the form of both bus and luas.

With regard to the impact on existing residential amenities, it is my view that the proposed separation distances achieve a balance of protecting the residential amenities of existing residents from undue overlooking, overshadowing and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces. In my view that proposed scheme would not result in undue overlooking, overshadowing or result in an overbearing impact on any existing properties.

The reason for refusal also considered that the proposed development by reason of inadequate separation distance between apartment blocks would result in a cramped building form and substandard level of residential amenity for future occupants in terms of overshadowing and poor visual amenity. Having regard to the information submitted in the Daylight, Shadow and Sunlight Impact Report, which I consider to be evidence based I do not agree that the development would result in undue overshadowing within the scheme. In addition, having regard to the information provided in the LVIA, Chapter 10 of the EIAR, which I consider provides a reasonable representation of how the scheme would appear I do not agree that the proposed development would result in poor visual amenity for future occupants.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

### 10.12.3. **Built Heritage**

The planning authority's second reason for refusal considered that the proposed development would have a detrimental impact on the setting and amenity of the protected structure.

As outlined in my assessment above, the proposed development would have no physical impact on the built fabric of the protected structures. Any potential effects are limited to visual impacts. In this regard it is acknowledged that the proposed development would alter the setting of the Gort Muire House and water tower. However, due to the siting of existing 1930's – 1960's buildings within the Carmelite Centre in particular the dormitory block (Building 08), to the separation distances between the Gort Muire house and the proposed development, the topography of both sites, and to the high quality contemporary design of the proposed scheme, which in my opinion provides an appropriate contrast to the existing historic buildings within the Carmelite Centre, it is considered that while the scheme would be highly visible from the Gort Muire house it would not detract from the setting or character of the protected structure.

The protected structure also includes the walled garden, farm buildings and the water tower. The walled garden and derelict farm buildings are located to the north west of the subject site and are in separate ownership. Construction is currently underway on this site for an apartment development (ABP-307545-20). I am satisfied that the proposed development would not impact on the setting or character of these existing features.

The 19<sup>th</sup> Century Water Tower is a folly. It is located outside of the subject site, to the west of the proposed main access to the site from Wyckham Avenue. The tower's visual connection to the original house at Gort Muire and formal gardens was extinguished when the 1950's buildings were constructed. The EIAR notes that the tower itself is of some architectural significance and is unique in its composition on this part of the site. It is my view that the proposed development would enhance the setting and character of this feature and that it provide a visual marker at the entrance to the scheme.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and would not negatively impact on the setting and character or on the amenity of the protected structure.

#### 10.12.4. **Car Parking**

The planning authority's recommended third reason for refusal considered that the inadequate number of car parking spaces would result in car parking overspill on surrounding residential roads.

The development plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including the location of the site and its proximity to a town centre and high density commercial / business district; the proximity to public transport; nature and characteristics of the development, availability of on-street car parking; implementation of a travel plan and other special circumstances.

The subject site is located c. 750m from Dundrum Town Centre and c. 1km from Dundrum Village, it is well served by high capacity and high frequency public transport with 2 no. bus stops within 400m of the site on Wyckham Way and the Balally Luas station is within 1km of the site. A Mobility Management Plan was submitted with the application which notes that a mobility manager would be appointed to implement the measures outlined in the plan. The Mobility Management Plan notes that 28 no. parking spaces would be assigned to a dedicated car club use. It is considered that 1 no. car sharing vehicle could replace up to 15 private cars. It is my view that the proposed scheme is located in an area that is suitable for a reduction in car parking.

As outlined above in my planning assessment it is also my view that having regard to the proposed nature of the scheme, which is a professionally managed BTR scheme, the site's urban location, its proximity a range of services and amenities at Dundrum Village and Town Centre and the sites proximity to public transport I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the surrounding road network.



In conclusion I am satisfied that the proposed level of car parking is reasonable having regard to the nature and location of the development and is acceptable in this instance.

#### 10.12.5. **Visual Amenity**

The planning authority's forth reason for refusal considered that having regard to the proposed height, scale and separation distances to the boundaries, it is considered that the proposed development would appear visually obtrusive and overbearing.

The site is locally elevated, and it is acknowledged that the blocks would be highly visible when viewed directly from the site boundaries and adjacent residential properties. It is also accepted that the proposed height is significantly taller than the existing adjacent buildings and would introduce new features in the skyline. However, it is my opinion, the proposed scheme should be viewed in the changing context of the environs of the site. I agree with the findings of the LVIA (Chapter 10 of the EIAR) and consider that the proposed height would not significantly detract from the visual amenities of this urban area and would not be visually obtrusive. In my opinion the visual impact from short range views and the medium to long distance views, would be generally positive due to the current vacant nature of the site, the high-quality contemporary design of the scheme and the transition in height with lower elements of the buildings located at the site's boundaries and the significant separation distances proposed. It is also noted that the proposed buildings do not impact or impede any protected views.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

#### 10.12.6. **Permeability / Connectivity**

The planning authority's fifth reason for refusal considers that the proposed development is premature as it fails to maximise permeability and connectivity.

The proposed scheme includes 3 no. future pedestrian / cycle access, in this regard at the site's northern boundary with St. Tiernan's Community School which would also facilities access onto Parkvale, at the sites southern boundary with Wesley Lawns / Greenmount Lane and the sites eastern boundary with Ballawley Park.

The potential future links would ultimately connect with the River Slag Greenway to the north of St. Tiernan's Community School. The applicants Planning Report notes that ultimately this connection is subject to approval of the Department of Education. It would appear from the information submitted that the applicant has made significant attempts to deal with the issue of connectivity and opening up links, in particular the connectivity with Ballawley Park. Therefore, I consider that it would be inappropriate to refuse permission on this ground.

## 11.0 **Environmental Impact Assessment (EIA)**

### ***Environmental Impact Assessment Report***

- 11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and it should be read in conjunction with the planning assessment above. The proposed development provides for 531 no. residential units, a c. 438sqm creche and a c. 97sqm café on a site area of 4.2 ha. The site is located within the administrative area of Dun Laoghaire Rathdown County Council. Concerns are raised by a number of third parties that the submitted EIAR is inadequate and does not sufficiently assess the potential negative impacts on the environment. The specific concerns are addressed below.
- 11.1.2. 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:
- Construction of more than 500 dwelling units
  - Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- 11.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and the submission of an environmental impact assessment report is mandatory

because the scale of the proposed development exceeds 500 dwellings. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Section 1.9 of the EIAR identifies the EIA Team and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.

11.1.4. 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.

11.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from Dun Laoghaire Rathdown County Council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. Concerns are raised by third parties that the process provided for under the 2016 Act contravenes the requirements of the EIA Directive and the public participation requirements set out. 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. I note that third parties have also raised concerns that insufficient alternatives were explored. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

11.2. ***Vulnerability of Project to Major Accidents and/or Disaster***

11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR does not address this issue directly, however, where relevant, the potential risk of accident are identified within a number of chapters within Volume I of the EIAR. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO. Therefore, this is not a source for potential for impacts. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. Chapter 7 Hydrology and Water Services and Chapter 12 Material Assets of the EIAR address the issue of flooding. The site is not at risk of flooding as the proposed development will have not have an impact on floodplain storage and conveyance. The likelihood of flooding is further minimised with adequate sizing of the on-site surface network and SuDS measures. Adequate attenuation and drainage have been provided for to account for increased rainfall in future years. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use is unlikely to be a risk of itself. Having regard to the sites zoning objective and its urban location, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

### 11.3. **Alternatives**

11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

*(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;*

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

*2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an*

*indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*

11.3.2. Chapter 2 Alternatives of the EIAR provides a description of the project and alternatives. A do nothing scenario was considered in respect of the site, which would represent an unsustainable and inefficient use of strategically important lands for the delivery of residential development. It is stated that alternative designs of the site were considered during the design process under the headings of alternative locations, alternative designs and layouts and alternative processes. Chapter 2 provides detail of 7 no. alternative layouts proposed for the site that include a variation in the number, height, scale and orientation of blocks. The design has been progressed with regard to the previous scheme approved on the site; to the significant level changes throughout the site; the very different styles of development to the north and west (high rise, high density urban apartments and retail) juxtaposed against the development to the south and east (open park lands and low density, low rise residential development); the character and protected structures to the west within the Gort Muire lands; the single vehicle access point into the site; and existing trees along the southern and eastern boundary. It is noted that third parties raised concerns that the EIAR failed to adequately discuss alternatives. However, I am satisfied that the alternatives have been adequately explored for the purposes of the EIAR. In the prevailing circumstances the overall approach of the applicant is considered reasonable, and the requirements of the directive in this regard have been met.

#### 11.4. **Consultations**

11.4.1. 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

#### 11.5. **Likely Significant Direct and Indirect Effects**

The likely significant indirect effects of the development are considered under the headings below which follow which is in accordance with Article 3 of the EIA Directive 2014/52/EU:

- Population and Human Health;

- Biodiversity;
- Land, Soil and Geology;
- Hydrology and Water Services;
- Noise and Vibration;
- Climate and Air Quality;
- Landscape and Visual;
- Traffic and Transport;
- Material Assets;
- Waste;
- Cultural Heritage - Archaeology
- Cultural Heritage – Architectural Heritage
- Integrations
- Schedule of Mitigation Measures

## 11.6. ***Population and Human Health***

11.6.1. Population and Human Health is addressed in Chapter 4 of the EIAR. The methodology for assessment is described as well as the receiving environment. The site is located to in the Sandyford-Dundrum ED, within the suburban built-up residential area of Dundrum and Ballinteer. It is a greenfield site that has remained undeveloped and comprises principally of a vacant field formerly controlled by the Gort Muire Carmelite Centre. Recent demographic and socio-economic are examined.

11.6.2. The principal findings are that proposed development would contribute to further growth and expansion of the neighbourhood contributing to the existing and future populations. The predicted impacts of the operational phase are considered to be long term and positive to population and human health. Positive impacts are also likely to arise due to an increase in employment and economic activity during the construction phase. The predicted impacts of the construction phase are considered to be short term, temporary and neutral. Overall, the proposal would contribute positively to the community by improving the vibrancy and vitality of the area. Mitigation measures

have been outlined that will ensure no significant negative impacts/effects on human health or population.

11.6.3. Third parties have also raised concerns that this chapter is inadequate as it fails to assess the impact of an increased population in the area on services in the area. I am satisfied that these concerns have been addressed as part of the scheme, which includes non-residential uses including a creche, a café and areas of public open space.

11.6.4. I have considered all of the written submissions made in relation to population and human health. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on population and human health are likely to arise.

## 11.7. ***Biodiversity***

11.7.1. Chapter 5 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report and a Natura Impact Assessment were prepared as standalone documents. The proposed development site is not located within any designated nature conservation area. As assessed in section 12 below, the proposed development was considered in the context of sites designated under Directive 92/43/EEC or Directive 2009/147/EC

11.7.2. A desk study was undertaken and included review of available ecological data within zone of influence. The following surveys were undertaken:

- Habitat surveys were undertaken on the 30th September 2019, 9th and 10th March 2020, 1st and 19th June 2020 and the 25<sup>th</sup> February 2021.
- Bat surveys were undertaken on the 11<sup>th</sup> August 2021
- Badger surveys were undertaken on the 20<sup>th</sup> August 2020 and the 10<sup>th</sup> August 2021
- Bird surveys were carried out over a number of days in March and June 2020 and in July and October 2021.
- A site assessment/survey for invasive species was carried out in July 2019.

- 11.7.3. The majority of the subject site is located on improved grassland (GS1), with small pockets of woodland (WL1), patches of scrub (WS1) and scattered trees identified. Additional artificial habitats found on site include the buildings and surfaces associated with the Gort Muire complex. There are no Annexed habitats on/adjacent to the proposed development site. There were no rare or protected species recorded on the site. There are no rare or protected habitats recorded within the study area. There are no rivers or streams that cross the proposed development site and no hydrological pathways to nearby rivers or streams evident. The development is located in an area of low to moderate ecological value and as such predicted to have a neutral imperceptible effect on biodiversity. A site assessment/survey for invasive species indicated that no Japanese Knotweed plant species were recorded within the property boundary.
- 11.7.4. *Habitats:* There will be a loss of c. 2 ha of improved grassland considered to be of low value at a local level which is considered imperceptible and neutral in the context of proposed green areas within the proposed landscape design. The Woodland areas within the site boundary are relatively small and considered of low value at a local level. The estimated minor loss, c. 0.03 ha, is considered imperceptible and neutral. The boundary of the site in the south-eastern corner with Ballawley Park habitat consists of grassy verge rather than hedgerow. There are small local patches of scrub and scattered trees considered of low value at a local level. The minor loss of less than 0.01 ha is considered imperceptible and neutral. The relatively small areas of bramble scrub areas are considered of low value at a local level. The minor loss is considered imperceptible and neutral.
- 11.7.5. Third parties have raised concerns that the EIAR fails to recognise that the applicant has already cut down trees and hedgerows affecting the environment in advance of lodging this application. The EIAR states that there has been some clearance and management of the woodland areas over time. During a site visit on the 24<sup>th</sup> February 2022 there was evidence of recent felling of mature trees on the site. I am satisfied that the loss of trees and / or habitat within the site has been considered as part of the assessment and that the loss is minor.
- 11.7.6. *Otters:* There are no suitable habitats for otters on or near the site.



- 11.7.7. *Bats*: There are no buildings or structures of roosting potential present on the subject site. Some larger trees confined to the south west portion of the site have potential for bat roosts. 3 no. bat species were detected during the surveys in this regard Common Pipistrelle; Leisler's Bat; and Soprano Pipistrelle. The most frequent bat species heard was Common Pipistrelle. Bat foraging activity was noted across the site during a bat assessment of Ballawley Park in 2020. There is no evidence of a current or past bat roost on site, therefore, no significant negative impacts on these animals are expected to result from the proposed development. However, foraging activity within the area will be lost unless sufficient hedgerow planting is carried out. Overall with the recommendations outlined in Section 5.7 of the EIAR are implemented any impacts are considered to be negligible. Potential impacts will be reduced to a temporary, slight, negative impact at a local scale.
- 11.7.8. *Badgers*: There are no badger setts within the site. A large disused mammal burrow was observed in a patch of woodland in the north of the site. This was described as potentially in use by fox during the previous survey in 2020, however, it has now become blocked with woody debris and is not considered in use. Well-used mammal trails were visible between the subject site and the adjoining St. Tiernan's School lands. A series of disused mammal burrows were recorded with the Carmelite Centre site. It is concluded that badger(s) do utilise the subject site as part of their territory, however, they do not maintain any active setts within the redline boundary. A loss of some foraging habitat would likely occur. With the implementation of mitigation measures and good site practices are outlined in Section 5.7 of the EIAR the impact would be reduced to permanent, slight, negative impact at a local scale. Likewise, disturbance impacts associated with the proposed development would likely represent a permanent, negative, slight impact at a local scale, due to a general increase in human presence at the site into the future.
- 11.7.9. *Birds*: Common species of birds were identified. No rare or endangered species of bird was recorded breeding within the subject site. No observations of Swifts were noted. Mitigation measures and good site practices have been outlined in Section 5.7 of the EIAR. Potential impacts have been identified, together with potential cumulative impacts. New planting will be incorporated into the landscape design, which is considered appropriate given the objective 'to preserve trees and woodland' on the

site and will also aid in negating some of the tree loss that has previously been undertaken on the site. With the employment of appropriate mitigation measures, the proposed development is anticipated will have a neutral imperceptible and long-term effect on biodiversity.

11.7.10. *Amphibians*: I am satisfied that there are no suitable habitats for amphibians within the site. Third parties note that smooth newt have been observed in the vicinity of the site. A number of habitat surveys were undertaken between 2019 and 2022 and the EIAR does not reference any suitable habitat for amphibians within the site. It is also noted that a desktop study was also carried out to determine existing records in relation to habitats and species present in the study area, this included research on the National Parks and Wildlife Service (NPWS) metadata website, the National Biodiversity Data Centre (NBDC) database and a literature review of published information on flora and fauna occurring in the proposed development area. None of which indicate that there are smooth newt present on the site. I am satisfied that there are no suitable habitats for smooth newt or any other amphibian within the site.

11.7.11. Having regard to the present condition of the site, with no special concentrations of flora or fauna, I am satisfied that the development of the site and the proposed landscaping and planting provides greater benefits in terms of biodiversity. I draw the Boards attention to the AA section of my report (Section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

## 11.8. ***Land, Soil and Geology***

11.8.1. Section 6 of the EIAR addresses land, soil and geology. Site investigation works were carried out in December 2019. There are three no. soil types noted at the proposed development site, namely deep well drained mineral, mineral poorly drained and made ground. GSI mapping for the region indicates that the soil type for the region is till derived from granites with some bedrock outcrop or sub crop. The lands are not located in a GSI or EPA source protection area.

11.8.2. There is potential for land and soils to interact with other environmental elements during both the construction and operational phases of the project. The predicted impacts at construction phase is limited to the excavations required to construct the

foundations and install the proposed works. If mitigation elements are implemented, then the risk of impact is stated as being negligible.

- 11.8.3. The operational stage of the residential development consists of the typical activities in a residential area and will not involve significant disturbance on land, soils and geology. Operational phase impacts would be negligible.
- 11.8.4. There are no likely significant impacts predicted on the soils, geology and groundwater environment associated with the proposed development of the site. There are no anticipated cumulative impacts.
- 11.8.5. I have considered all of the written submissions made in relation to land, soil and geology. 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, soil and geology.

#### 11.9. ***Hydrology and Water Services***

- 11.9.1. Section 7 of the EIAR deals with hydrology and water services. The nearest watercourse is the River Slang, which is located to the west of the proposed development and runs in a south to north direction. A Site Specific Flood Risk Assessment has been undertaken and the site is located within Flood Zone C.
- 11.9.2. Connections to existing public drainage and water supply services works are proposed. SuDS measures will intercept and attenuate surface water on site. During the construction phase of the proposed development there are several potential processes that could impact the existing surface water, foul water and watermain networks, however no predicted significant impacts are anticipated. During the operational phase, no negative residual impacts are anticipated.
- 11.9.3. Potential cumulative impacts have been assessed and a wide range of mitigation measures have been specified for both the construction and operational phases of the project. These mitigation methods seek to ensure that construction and operational discharges are controlled to prevent potential pollution impacts to all receiving surface water systems.

11.9.4. I have considered all of the written submissions made in relation to hydrology and water services. I note the reports of both Irish Water and the Planning Authority in this regard. I refer the Board to my assessment of 'Drainage and Flood Risk' above.

11.9.5. 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 hydrology and water services.

#### 11.10. **Noise and Vibration**

11.10.1. Section 8 of the EIAR deals with noise and vibration. Baseline noise monitoring was under taken between the 8<sup>th</sup> – 10<sup>th</sup> January 2020 and an environmental noise survey was undertaken on the 1<sup>st</sup> July 2020. These surveys were undertaken across the development area to determine the range of noise levels at varying locations across the site. Prevailing noise levels in the locality are primarily due to local road traffic.

11.10.2. Concerns are raised by third parties that the application does not include a vibration assessment and the potential impact of construction noise and vibration on existing properties is unclear. Concerns are also raised that noise generated by the proposed development would have a negative impact on existing residential amenities.

11.10.3. The closest residential property is located. C. 13m east of the subject site. During the construction phase there is the potential for significant and moderate impacts on nearby noise sensitive properties due to noise emissions from site activities. Vibrations impacts may occur during the construction phase as a result of ground preparation works and plant and machinery movements. The application of noise and vibration control measures will ensure that noise and vibration impact will have a negative, moderate and short-term impact on the surrounding environment.

11.10.4. During the operational phase, the predicted change to noise levels associated with additional traffic is anticipated to be of imperceptible impact along the existing road network, with neutral, imperceptible, and long-term impact to nearby residential locations. Noise levels associated with operational plant are expected to be well within the adopted noise limits at the nearest noise sensitive properties. No significant

sources of vibration are expected to arise during the operational phase of the development.

11.10.5. Potential cumulative impacts have been examined. Mitigation measures are proposed for both the construction and operational phases in relation to noise and vibration.

11.10.6. I have considered all of the written submissions made in relation to noise and vibration. 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 or vibration.

#### 11.11. ***Climate and Air Quality***

11.11.1. Section 9 of the EIAR deals with climate and air quality. In terms of air monitoring and assessment, the proposed development site is within Zone A (Dublin conurbation). The existing ambient air quality in the vicinity of the site has been characterised with information obtained from a number of sources including EPA Annual Air Quality in Ireland Reports and Local air monitoring stations data. Levels of traffic-derived air pollutants for the development will not exceed the ambient air quality standards either with or without the proposed development in place. The impact of the development in terms of PM<sub>10</sub>, CO, NO<sub>2</sub>, NO<sub>x</sub> and benzene is negligible, long-term and imperceptible.

11.11.2. Concerns are raised by third parties that limited details have been provided regarding how dust would be minimized during the construction period.

11.11.3. The greatest potential impact on air quality during the construction phase is from construction dust emissions and the potential for nuisance dust. In order to minimise dust emissions during construction, a series of mitigation measures have been prepared in the form of a Dust Minimisation Plan. When the dust minimisation set out in the Plan are implemented, air quality impacts during construction phase will not be significant.

- 11.11.4. No additional mitigation measures are required as the operational phase of the proposed development as it is predicted to have an imperceptible impact on ambient air quality and climate.
- 11.11.5. There is the potential for a number of greenhouse gas emissions to atmosphere during the construction of the development. Impacts to climate during the construction phase are considered imperceptible and therefore residual impacts are not predicted. During the operational phase, impacts of the proposed development on air quality and climate is predicted to be imperceptible for both the long and short term.
- 11.11.6. Potential cumulative impacts have been examined. Mitigation measures for construction and operational phases have been outlined in Section 9.7 of the EIAR.
- 11.11.7. I have considered all of the written submissions made in relation to climate and air quality. 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 climate and air quality.

## 11.12. ***Landscape and Visual***

- 11.12.1. Section 10 of the submitted EIAR deals with landscape and visual. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the urban environs of the site from an urban design and planning context in the planning assessment of my report.
- 11.12.2. The lands are not recorded as a high value landscape. They are located in an urban context within an established residential neighbourhood of Dundrum and Ballinteer. It is a greenfield site, and its present character is defined by open fields having a former agricultural use. Third parties have raised concerns about the negative visual impact of the development. A series of 15 no. photomontages were submitted in this regard, together with some CGIs. A Landscape and Visual Impact Assessment (LVIA) was also undertaken.

- 11.12.3. The Gort Muire Carmelite Centre is a Protected Structures (RPS Ref.1453). A full description of nearby Protected Structures can be found in the 'Cultural Heritage – Architecture Heritage' of this EIAR. The lands to the east and the south consist of residential developments comprising two storey housing. Ballawley Park, a large public park lies directly to the south east of the site, while the land to the north consists of St Tiernan's Community School and the Walled Garden (also formerly part of the Carmelite Centre). Adjoining the Carmelite Centre to the north and west are a number of modern apartment developments (Wyckham Point and Wyckham Place) built in the mid to late 2000's along Wyckham Way with heights ranging up to 8 storeys.
- 11.12.4. During the construction phase the site and immediate environs would be disturbed by construction activities and haulage and the incremental growth of the buildings on site, with indirect effects on the setting of the existing area. Any development on a large undeveloped site would naturally result in a considerable visual impact and material change to the landscape character of the site. The construction phase of the development would be visually unappealing during the initial stages and as the development progresses the visual impacts would be lessened. Therefore, the significance of the effects would also vary, although they would typically be negative during construction but temporary. Such temporary negative effects are unavoidable and not unusual in the urban context where change is continuous.
- 11.12.5. On completion the proposed development will significantly alter the immediate landscape from a vacant grassland field into a significant apartment development comprising 5 blocks ranging in height from 3 to 10 storeys with associated development. However, the landscape impact within the wider suburban context, whilst still significant, will not be uncharacteristic of what has occurred within the area over the past 15-20 years. The current proposal represents another phase in the ongoing consolidation and densification of the wider suburban area of Dundrum & Ballinteer in line with current planning policy. The proposed apartment blocks would visually integrate with the existing apartment developments. The development will provide a positive contribution to the urban character of the area at this location.
- 11.12.6. The EIA states that the extent of impact on the wider landscape will not be widespread given that the views of the site in most locations are constrained by existing topography, vegetation and the existing built environment. Where visible the additional

impact will not be excessive within the existing suburban context and given the sensitive design proposed. It is considered that the proposed development will have a moderate impact on the landscape at the local level by replacing an undeveloped vacant site with a large residential development. This will have a neutral to positive impact by contributing to the urban character of the area. The design of the proposed development and the planting contained throughout the scheme will work to integrate the development into the wider urban landscape. In addition, the subject site is zoned for development and the proposed development is therefore not an unexpected addition to the area particularly given other apartment developments also built on former Carmelite Centre lands in the vicinity. Overall, it is considered that the development in terms of siting, form, and design will not represent a negative visual impact on the wider urban landscape.

11.12.7. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, 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, in particular from the positioning of taller elements of the scheme away from the site's sensitive boundaries. I am, therefore, satisfied that the proposed development would have an acceptable direct, indirect, and cumulative effects on the landscape and on visual impact.

### 11.13. ***Traffic and Transportation***

11.13.1. Section 11 of the submitted EIAR deals with Traffic and Transportation. Third parties have raised concerns in relation the capacity of the surrounding road network. From an environmental perspective, the EIAR addresses these aforementioned matters in detail alongside potential construction and cumulative impacts. My assessment of Transportation in Section 10.8 above also considers these matters and I refer the Board to same.

11.13.2. During the construction phase, construction traffic travelling to the site will use the Wyckham roundabout for access. A Construction Traffic Management Plan (CTMP)



would be implemented. Overall, it is anticipated that there will be a negative short-term slight impact to local traffic during the construction phase.

11.13.3. During the operational phase, it is anticipated that there is likely to be a long-term, imperceptible neutral impact on the surrounding roads as a result of the proposed development. In the Design Year of 2040, the Wyckham Roundabout would already be at theoretical capacity (87% in the Weekday Peak and 89% in the Weekend Peak) for the Design Year 2040 including for the Walled Garden Residential Development. The additional traffic from the proposed development would increase the theoretical capacity of the roundabout to 94% in the Weekday Peak and 91% in the Weekend Peak. Based on current traffic volumes it is considered that the roundabout would reach theoretical capacity (85% RFC) by 2029 during the weekday peak and 2031 during the weekend peak.

11.13.4. Cumulative impacts were also assessed. Mitigation measures have been proposed. Overall it is considered that in urban areas a certain level of congestion is to be expected during peak times and that the Wyckham Roundabout has suitable capacity to cater for the proposed development within the norms of a busy urban environment.

11.13.5. I have considered all of the written submissions made in relation to Traffic and Transportation. I note the reports of the planning authority and the submission from TII which raised no objection. 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 Traffic and Transportation.

#### 11.14. ***Material Assets***

11.14.1. Section 12 of the EIAR deals with Material Assets. Existing infrastructure and utilities services are described, together with predicted impacts and mitigation measures.

11.14.2. The local road network is of good quality and connects to the subject site and the site is well served by public transport in the form of bus and luas. The TTA submitted addressed the impact of the development on the surrounding road network and is addressed in Section 10.8 of my planning assessment and I refer the Board to same.

- 11.14.3. There are existing surface water and foul water sewers on Wyckham Avenue to the west of the site. An Engineering Planning Report was submitted with addressed the impact of the development on the public water, foul water and drainage systems. This is addressed in Section 10.9 of my planning assessment, and I refer the Board to same.
- 11.14.4. The site is served by telecommunications networks, natural gas, electricity and waste management operators. The connection to gas and electricity would be conducted in parallel with other services. This would mainly involve excavation of trenches to lay ducting, construction / installation of access chambers and backfilling the trenches. Potential loss of connection to the ESB Networks and to the Gas Networks Ireland infrastructure may occur while carrying out works to provide service connections but this likely adverse impact may be characterised as a temporary, regionally short term, moderate impact. While the operational phase would not adversely impact on the existing services to neighbouring sites and properties.
- 11.14.5. The construction phase of development will generate a range of non-hazardous and hazardous waste materials. A site-specific Construction Waste Management Plan has been submitted with the application outlining mitigation measures. The potential impacts of operational waste generation from the development is considered to be long term and not significant.
- 11.14.6. It is unlikely that the cumulative impact of permitted and proposed developments would give rise to significant impacts on material assets built services during the construction or operational stage of those projects and any impacts are likely to be temporary in nature.
- 11.14.7. On the basis that the specified mitigation measures are incorporated during the construction of the proposed development, the predicted impact will be neutral.
- 11.14.8. 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 Material Assets.

## 11.15. **Waste Management**

- 11.15.1. Section 13 of the EIAR deals with Waste Management. A site specific Construction and Demolition Waste Management Plan has been prepared for the construction phase of the development. In addition, an Operational Waste and Recycling Management Plan has been prepared for the operational phase of development.
- 11.15.2. No demolition works are required. Estimates of waste generation during both the construction and operational phase of the proposed development have been calculated.
- 11.15.3. The implementation of the mitigation measures aims to ensure that a high rate of reuse, recovery and recycling is achieved at the development during both the construction and operational phases. It will also ensure that European, national and regional legislative waste requirements with regard to waste are met and that associated targets for the management of waste are achieved.
- 11.15.4. Potential cumulative impacts have been examined. During the construction phase, a planned approach to waste management and adherence to the C&D WMP will ensure that the impact on the environment will be short-term, neutral and imperceptible. During the operational phase, a structured approach to waste management will promote resource efficiency and waste minimisation and provided mitigation measures are implemented, the predicted impact on the environment will be long-term, neutral and imperceptible.
- 11.15.5. 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 Waste Management.

## 11.16. **Cultural Heritage- Archaeology**

- 11.16.1. Section 14 of the EIAR deals with Cultural Heritage - Archaeology. There are no archaeological sites recorded within the boundary of the subject site. A tower house (DU022-023001-) and an Anglo-Norman masonry castle (DU022-023002) (Dundrum

Castle) are located 674m to the north of the proposed development area (PDA). A Tower House Castle site (DU022-024----) is located 548m to the east-southeast of the PDA. A Church site (DU022-036002-) is situated adjacent to the M50 motorway 885m to the south of the site. The proposed development site is located immediately beside sites of architectural heritage value, which are Protected Structures. Gort Muire (RPS No. 1453) is a historic house, built in 1870, and referred to as 'Gortmore' on historic maps. The RPS listing includes the house and associated features, including a walled garden which adjoins the northern boundary of the site. Gort Muire Gate Lodge and Gates are also Protected Structures (RPS No 1446). However, these are separated from the site by Wyckham Way (R826)

11.16.2. A programme of archaeological testing was carried out at the subject site in July 2020. Nothing of archaeological significance was noted. Much of the proposed development site was entirely scarped or stripped back at some time in the recent past and subsequently inundated with imported fill. The potential for previously unknown sub-surface remains is negligible. It is recommended that the development proceed with no further archaeological mitigation. No significant cumulative impact has been identified. It is anticipated that there will be no operational or setting impact on any recorded archaeological sites by the development.

11.16.3. The proximity of the proposed development to Gort Muire House, Protected Structure (RPS No. 1453) is noted. This matter is dealt with below, in the proceeding section.

11.16.4. I am satisfied that no significant adverse direct, indirect or cumulative effects on Cultural Heritage-Archaeology are likely to arise.

#### 11.17. ***Cultural Heritage- Architectural Heritage***

11.17.1. Section 15 of the submitted EIAR deals with Cultural Heritage- Architectural Heritage. Whilst the subject site does not contain a Protected Structure, it does share a boundary to the west with the Gort Muire Centre, whose Water Tower, Garden Walls and Farm Building Complex, House, Ornamental Ironwork, Conservatory and Water Tower are protected structures (RPS Ref.1453). Protected Structures in the wider vicinity including Gortmore Gate Lodge; Homestead and Arglas, are not considered to be directly impacted by the proposed development due to pre-existing screening and distance. I would concur with this assertion. The site is not located within or adjacent

to an Architectural Conservation Area. Built Heritage is also addressed in Section 10.6 of my planning assessment, and I refer the Board to same.

- 11.17.2. The EIAR notes that the subject site was never incorporated into the designed garden as part of the overall complex and that the protected fabric of Gort Muire is shielded from the subject development site by a 1960's dormitory block, constructed in alignment with the shared southern boundary. This large-scale structure provides an inadvertent enclosure to the protected gardens, garden features and historic landscaping of the house, all of which are specifically cited in the RPS as contributing to its character, thus meriting protection.
- 11.17.3. During the construction stage a temporary screen will be constructed to protect the water tower from risk of damage due to construction traffic, dust and debris. A condition assessment of the tower will be carried out prior to commencement of works to enable monitoring of pre-existing vulnerabilities, if found to be present. The construction traffic route comprises a shared boundary with the protected walled gardens, which will require similar consideration in a suite of mitigation strategies.
- 11.17.4. During the operational phase the proposed development would have no physical impact on the built fabric. The visual impacts will be largely limited to the setting of Gort Muire house and the water tower on approach up Wyckham Avenue, and the setting of the formal garden to the southeast of the house. To mitigate against the visual impact supplementary landscaping is proposed.
- 11.17.5. The cumulative impact of the permitted development of the Walled Gardens (Ref. ABP-307545-20) and the proposed development alters the character of the historic approach from Wyckham Avenue. However, the combined developments succeed in retaining the prominence of the site's architectural heritage in the establishment of planted buffers and building design modulated to reduce scale where adjacent to historic structures.
- 11.17.6. Concerns are raised by third parties that the EIAR fails to mention that the original 19<sup>th</sup> century boundary wall at the interface with the park will be removed. The EIAR notes that a masonry wall defines a portion of the south-east boundary. This wall is partially concealed by vegetation and forms part of a ditch and traditional field boundary. It is proposed that a detailed study of all such historic walled boundaries would be carried

out after the clearance of vegetation to assess the condition and composition of the wall and to inform an appropriate conservation strategy for its consolidation and to secure its future protection within the proposed scheme.

11.17.7. I have considered all of the written submissions made in relation to Cultural Heritage-Architectural Heritage. I note the reports of the planning authority and An Taisce in this regard. I also note the points raised in the third party submissions received in this regard. From an environmental viewpoint, I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on Cultural Heritage-Architectural Heritage are likely to arise.

11.18. ***The interaction between the above factors***

Section 16 of the EIAR provides a summary of principal interactions and inter-relationships, which have been discussed in the preceding chapters. 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. In conclusion, I am generally 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.

11.19. ***Schedule of Mitigation Measures***

Section 17 sets out a schedule of the mitigation measures proposed in the EIAR.

11.20. ***Reasoned Conclusion on the Significant Effects***

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 and human health impacts mitigated by appropriate construction and operational management plans. Direct positive effects with regard to population and material assets due to the increase in population to help sustain and generate improvements to physical infrastructure in the area.

- Biodiversity impacts mitigated by additional planting/landscaping and appropriate work practices.
- Soils and geology impacts mitigated by construction management measures including minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.
- Hydrology and Water Services impacts to be mitigated by management of surface water run-off during construction to prevent run off discharging directly into watercourses.
- Landscape and Visual impacts would be significant with a direct effect on land by the change in the use and appearance of a relatively large area of greenfield land to residential. Given the location of the site within the urban area and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Cultural Heritage - Architectural Heritage would be mitigated by landscaping. Given the location of the site within the urban area no significant adverse direct, indirect or cumulative effects on Cultural Heritage-Archaeology are likely to arise.
- Climate and Air Quality impacts mitigated by dust minimisation plan.
- Traffic and Transportation impacts mitigated by the management of construction traffic; Construction and Environmental Management Plans
- Noise and Vibration impacts mitigated by adherence to requirements of relevant code of practice.

The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in many of the individual EIAR chapters are satisfactory, I am satisfied with the information provided in relation to Landscape and Visual Assessment to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

## 12.0 **Appropriate Assessment**

### 12.1. ***Introduction***

12.1.1. The applicant has prepared an AA Screening Report and a Natura Impact Statement (NIS) as part of the application. The AA screening report concluded that potential impacts on four identified European sites may arise as a result of the proposed development, during the construction phase, on this basis an NIS has been prepared. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

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

12.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

12.2.2. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Assessment. The Screening Report was prepared by Moore Group – Environmental Service. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development, an assessment of the potential impacts arising from the development and an assessment of potential in-combination effects. The AA screening report concludes that in the absence of construction management and SuDs measures, the potential impact on the Slang River, which has connectivity via the River Dodder and Dublin Bay is uncertain. In line with Departmental Guidance and having regard to ECJ case law and the 'precautionary principle' Stage 2



Appropriate Assessment is required in respect of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA.

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

### 12.3. ***Stage 1 AA Screening***

12.3.1. 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.

### 12.4. ***Brief Description of the Development***

12.4.1. The applicant provides a description of the project in Section 3 of the Screening Report. The development is also summarised in Section 3 of my report. In summary, the proposed development comprises the construction of 531 no. apartments in 5 no. blocks (A – E) ranging in height from 3 - 10 storeys. There is a partial over basement / lower ground floor level located under Blocks A and B in the northern portion of the site.

12.4.2. The scheme includes resident support facilities and resident services and amenities, a creche and café. Provision of 171 no. car parking spaces (including creche drop-off spaces), 1,012 no. cycle parking spaces and 26 no. motorcycle spaces. Vehicular/pedestrian/cyclist accesses including from Wyckham Avenue and including improvement works to the existing Carmelite Centre access road and entrance. The surrounding area is suburban in nature. The site is serviced by public water supply and foul drainage networks. It is proposed that the foul sewer will discharge by gravity to the sewer on Wyckham Avenue. All foul water drainage shall be designed in accordance with Irish Water's Wastewater Code of Practice and Standard Details.

Surface water drainage for the Proposed Development is to be restricted to QBar as per the requirements of the Greater Dublin Strategic Drainage Strategy. In order to restrict surface water drainage to QBar sustainable drainage systems (SuDS) will be implemented by the developer. It is proposed to discharge the stormwater drainage within the site to the existing sewer on Wyckham Avenue by gravity. The development site is located in a heavily urbanised environment close to noise and artificial lighting. The site is overgrown. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

## 12.5. ***Submissions and Observations***

12.5.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 above. A submission was also received from Inland Fisheries Ireland which notes that the proposed development is within the catchment of the River Dodder and that best practice should be implemented at all times in relation to any activities that may impact on surface water or riparian habitats. Any discharges must not impact negatively on the system.

## 12.6. ***Zone of Influence***

12.6.1. The proposed development is not located within or immediately adjacent to any European Site.

12.6.2. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;

- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features.

12.6.3. The applicant considers that European sites located within the potential Zone of Influence of the Proposed Development are South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA. These sites are listed in Table 1 of the applicants AA Screening Report and the qualifying interest and conservation objectives for these 4 no. sites are outlined in Table 2 of the AA Screening Report.

12.6.4. The following Natura 2000 sites that are within 15km of the site and their distance from the application site are identified:

- South Dublin Bay SAC (Site Code 000210): 4.3km.
- Wicklow Mountains SAC (Site Code 002122): 5.4km.
- Knocksink Wood SAC (Site Code 000725): 7.7km.
- North Dublin Bay SAC (Site Code 000206): 9.2km.
- Glenasmole Valley SAC (Site Code 001209): 8.6km.
- Ballyman Glen SAC (Site Code 000713): 9.2km.
- Rockabill to Dalkey Island SAC (Site Code 003000): 9.8km.
- Howth Head SAC (Site Code 000202): 13.6km.
- Bray Head SAC (Site Code 000714): 13.5km.
- Baldoyle Bay SAC (Site Code 000199): 14.75km.
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024): 4.1km.
- Wicklow Mountains SPA (Site Code 004040): 5.6km.
- North Bull Island SPA (Site Code 004006): 9.2km.
- Dalkey Islands SPA (Site Code 004172): 9.5km.
- Baldoyle Bay SPA (Site Code 004016): 14.8km.

12.6.5. Qualifying Interests / Special Conservation Interests for which each European Site outlined above have not been outlined in the AA Screening Report. I have, however, examined the NPWS website in this regard. In terms of Conservation Objectives for each site, it is noted that the most sites have generic conservation objectives, which seek to maintain or restore the favourable consideration condition of the habitat / species for which the site has been selected. Detailed conservation objectives are available on [www.npws.ie](http://www.npws.ie) and I refer the Board to same which seek to maintain and/or restore favourable conservation condition.

12.6.6. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Ringsend WWTP and the River Dodder, and could, therefore, reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

12.6.7. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development, the absence of relevant qualifying interests in the vicinity of the works, the absence of ecological and hydrological pathways and to the conservation objectives of the designated sites.

## 12.7. **Screening Assessment**

12.7.1. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are as follows:

<b>South Dublin Bay SAC</b> (000210) - c. 4.3km from the subject site.
<b>Conservation Objective</b> - 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.
<b>Qualifying Interests/Species of Conservation Interest:</b> Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210]

/ Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

**South Dublin Bay and River Tolka Estuary SPA** (004024) - c.4.1 km from the subject site.

**Conservation Objective** – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

**Qualifying Interests/Species of Conservation Interest:** Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Oystercatcher (*Haematopus ostralegus*) [A130] / Ringed Plover (*Charadrius hiaticula*) [A137] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

**North Dublin Bay SAC** (000206) – c. 9.2km from the subject site

**Conservation Objective** - 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.

**Qualifying Interests/Species of Conservation Interest:** Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

**North Bull Island SPA (004006)** - c. 9.2km from the subject site.

**Conservation Objective** – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

**Qualifying Interests/Species of Conservation Interest:** Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

## 12.8. **Consideration of Impacts**

- 12.8.1. It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.
- 12.8.2. Surface water from the proposed development would discharge to the public network. The habitats and species of Natura 2000 sites in Dublin Bay are between 4.1km and 9.2km downstream of the site and water quality is not a target for the maintenance of any of the QI's / SCI within the designated sites in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay via the River Slang and River Dodder. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices 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 Natura 2000 sites. In the event that the pollution control

and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

- 12.8.3. The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated 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.
- 12.8.4. The foul discharge from the proposed development would drain, via the public combined sewer, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway.
- 12.8.5. It is noted that Ringsend WWTP is currently working at or beyond its design capacity. This is also stated in the submission from Inlands Fisheries Ireland. The subject site is identified for development through the land use policies of the Dun Laoghaire Rathdown County Development Plan 2016-2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is located in the urban area on serviced lands and the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

12.8.6. The site is located in an urban area and has not been identified as an ex-situ site for qualifying interests of a designated site. Bird surveys undertaken as part of the EIA process determined that the site is of relatively low value to the Wintering birds for which the coastal SPAs are designated and given the distance of removal, being over 4km, there will be no loss of foraging habitat to Annexed species. I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

12.9. ***Cumulative In-Combination Effects***

12.9.1. Table 4 of the AA Screening Report indicates that there have been 20 no. grants of planning permission in the vicinity of the proposed development in the last 4 years. It is anticipated that there will be no predicted in-combination effects given the nature and scale of the proposed development and the distance to any European sites.

12.10. ***AA Screening Conclusion***

12.10.1. It is evident from the information before the Board that on the basis of 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 report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

12.10.2. I note the applicant submitted a Natura Impact Statement (NIS). In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.



12.10.3. 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 Natura 2000 site.

12.10.4. 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 North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required

## 13.0 **Recommendation**

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied, and that permission is granted for the reasons and considerations and subject to the conditions set out below.

## 14.0 **Reasons and Considerations**

Having regard to

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016 - 2022
- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021

- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- i. The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- j. 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 in March 2013;
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- n. Chief Executive’s Report; and
- o. Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development 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.

## 15.0 **Recommended 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 10<sup>th</sup> day of December 2021 by McGill Planning Limited, on behalf of 1 Wyckham Limited.

**Proposed Development:** The proposed development comprises a 'Build to Rent' (BTR) residential scheme consisting of 531 no. apartments in 5 no. blocks (A – E) ranging in height from 3 - 10 storeys. There is a partial over basement / lower ground floor level located under Blocks A and B in the northern portion of the site.

The apartments comprise 28 no. studios, 297 no. 1 -beds, 197 no. 2-beds and 9 no. 3-beds. All residential units provided with associated private balconies / terraces. The scheme also includes c.1,488sqm of internal residential amenity space, a c.438sqm creche and a 97sqm cafe unit.

Vehicular / pedestrian / cyclist access is from Wyckham Avenue and the works include improvements to the existing Carmelite Centre access road and entrance. Additional pedestrian accesses from Ballawley Park and Greenmount Lane are also proposed. The development also includes the provision of 171 no. car parking spaces, 1,012 no. cycle parking spaces and 26 no. motorcycle spaces. All associated site development works, open spaces, roof gardens, landscaping, boundary treatments, plant areas, waste management areas, cycle parking areas, and services provision, including ESB substations.

**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.

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

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016 - 2022

- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- i. The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- j. 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 in March 2013;
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- n. Chief Executive’s Report;
- o. Inspector’s Report; and
- p. Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development 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.

### ***Appropriate Assessment:***

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

### **Environmental Impact Assessment**

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, 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 in support of the application, (c) The submissions from the applicant, planning authority, third parties and the prescribed bodies in the course of the application; and (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

- Population and human health impacts mitigated by appropriate construction and operational management plans. Direct positive effects with regard to population and material assets due to the increase in population to help sustain and generate improvements to physical infrastructure in the area.
- Biodiversity impacts mitigated by additional planting/landscaping and appropriate work practices.
- Soils and geology impacts mitigated by construction management measures including minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.
- Hydrology and Water Services impacts to be mitigated by management of surface water run-off during construction to prevent run off discharging directly into watercourses.
- Landscape and Visual impacts would be significant with a direct effect on land by the change in the use and appearance of a relatively large area of greenfield land to residential. Given the location of the site within the urban area and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Cultural Heritage - Architectural Heritage would be mitigated by landscaping. Given the location of the site within the urban area no significant adverse direct, indirect or cumulative effects on Cultural Heritage-Archaeology are likely to arise.
- Climate and Air Quality impacts mitigated by dust minimisation plan.
- Traffic and Transportation impacts mitigated by the management of construction traffic; Construction and Environmental Management Plans
- Noise and Vibration impacts mitigated by adherence to requirements of relevant code of practice.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the

vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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

The Board considered that the proposed development is, apart from the parameters of the Building Height as set out in Policy UD6: Building Height Strategy; Density as set out in Section 2.1.3.5: Institutional Lands of the Dun Laoghaire Rathdown County Development Plan 2016-2022 broadly compliant with the provisions of the 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 provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 with regard to building height and density.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) 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:

- The subject site has an area of c. 4.2ha and would deliver 531 no. residential units in the urban area of Dundrum. The site's suburban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The sites is also located in close proximity to high frequency and high capacity public transport, educational and employment hubs and a range of services and facilities within Dundrum. It is, therefore, considered that this scheme is strategic by reason of its location and scale, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The

proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy UD6: Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objectives 13, and 35 of the National Planning Framework which support increased residential densities and building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy RES5, the INST objective and Section 2.1.3.5 in relation to density of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objective 35 of the National Planning Framework which supports increased residential densities at appropriate locations .
- RPO 5.4 and RPO 5.5 of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourage the provision of higher densities and the consolidation of Dublin and suburbs.
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

## 16.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the



developer shall agree such details in writing with the planning authority prior to commencement of development, 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.

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

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 – Schedule of Mitigation Measures, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. The proposed development shall be amended as follows: -

- a. The balconies on the eastern elevation of Block A serving units A-00-005, A-01-105, A-02-205, A-03-305, A-04-405, A-05-505, A-06-605 and A-07-705 shall be omitted. Appropriate screening shall be provided on the eastern elevation of the revised balconies serving these units. The eastern elevation of the corner window of these units shall be appropriately screened with louvres.
- b. The translucent glazing serving the windows on the southern elevation of units C-00-001, C-00-017, C-01-101, C-01-118, C-02-201, C-02-218, C-03-301, C-03-318, C-04-414, C-04-418, C-05-501, C-05-518, C-06-601 and C-06-618 in Block C shall be omitted and the windows shall be appropriately screened with louvres. The southern elevation of the balconies serving these units shall be appropriately screened.
- c. The translucent glazing serving windows on the southern elevation of units D-00-001, D-00-013, D-01-101, D-01-114, D-02-201, D-02-214, D-03-301,

D-03-314, D-04-414, D-04-414, D-05-501, D-05-514 in Block D shall be omitted and the windows shall be appropriately screened with louvres. The southern elevation of the balconies serving these units shall be appropriately screened.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of privacy and residential amenity

4. Prior to commencement of development the applicant shall submitted final details of the size and location of the private amenity space / balconies for the 3-bed units located in Block C for the written agreement of the Planning Authority. In default of agreement the matter in dispute shall be referred to An Bord Pleanála for determination.

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

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the proposed 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 apartments within the scheme.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent Accommodation scheme. Any proposed amendment or deviation from the Build to Rent

Accommodation model as authorised in this permission shall be subject to a separate planning application.

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

7. The proposed render finish shall be omitted from the external materials. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors 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.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

8. The hours of operation of the roof terrace at Block B shall be 07.00 to 22.00 Monday to Sunday, unless otherwise agreed in writing with the Planning Authority.

**Reason:** In the interest of amenities of property in the vicinity.

9. Details of signage relating to the creche unit and cafe unit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

10. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for

occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

11. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

**Reason:** In the interest of place making and visual amenity.

12. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

13. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a 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.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

14. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all

remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points 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.

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

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

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

16. 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.
- d) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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

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

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

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

19. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

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

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

21. 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.

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

22. 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.

**Reason:** In the interest of sustainable waste management.

23. The construction of the development shall be managed in accordance with a Construction 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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

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

25. 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 other prospective party to the agreement to An Bord Pleanála for determination.

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

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development



Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Elaine Power

Senior Planning Inspector

24<sup>th</sup> March 2022