



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313127-22

<b>Development</b>	Permission for development for proposed mixed use development for which a ten year permission is sought and all associated site works
<b>Location</b>	10.4 ha at Quadrant 3, The Park, Glenamuck Link Road, (also known as Glenamuck Road), and Ballyogan Road, Carrickmines Great and, Jamestown, Dublin 18
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/1145
<b>Applicant(s)</b>	IPUT PLC.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	IPUT PLC.
<b>Observer(s)</b>	None.

**Date of Site Inspection**

02.02.2023

**Inspector**

Fiona Fair

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## 1.0 Site Location and Description

- 1.1. The Park Carrickmines is situated to the west of the Glenamuck Link Road, to the south of Ballyogan Road, to the southwest of the M50 Carrickmines Interchange and 12 kilometres south east of Dublin City Centre. The subject site is served by public transport network including the Luas Green Line with a station at Ballyogan Wood to the north. The site also benefits from existing bus services operating between Kiltiernan and Dun Laoghaire.
- 1.2. The site, extending to, is located in the development area of Ballyogan/Stepaside and adjacent to Glenamuck and Kiltiernan,
- 1.3. The planning application site, c.10.4ha, described as 'Quadrant 3' forms the north-east quadrant of the larger area known as "The Park", which comprises of a mix of commercial, office and retail warehousing uses. The Park, Carrickmines comprises of four quadrants – the south western and north western quadrant comprises of a retail park. Commercial office buildings are located within the south east quadrant.
- 1.4. The north-east quadrant, which is the subject of this application, is primarily undeveloped (with the exception for the link road delivered pursuant to the extant permission on site) and bounded by hoarding and fencing on all sides.
- 1.5. The former Ballyogan landfill site is located to the west of the site. The lands to the south of The Park are also zoned objective 'E' to provide for economic development and employment and are undeveloped at present. The Samuel Beckett Civic Campus and a Gaelscoil are located on the Ballyogan Road, approximately 1km to the north west of The Park.
- 1.6. The site is currently accessed from the Glenamuck Link Road along the eastern boundary of the site, which connects to the Glenamuck Road further to the south. A link road connecting the site to the Ballyogan Road and Ballyogan Wood Luas Stop has been constructed under the extant permission on site (Reg. Ref: D18A/0257 and ABP Ref.: 304396-19).

## 2.0 Proposed Development

2.1. A 10 year Permission is sought for a mixed use development as follows:

- A Gross Floor Area (GFA) of 91,288 sq.m, excluding the basement car parks, in eleven blocks varying in height from one to eleven storeys.
- The maximum height of the proposed development is 36.87 metres.
- The development will provide for:
  - 31,082 sq.m GFA of office floorspace,
  - 3,982 sq.m GFA of retail warehousing floorspace,
  - 7,929 sq.m GFA of retail floorspace, which includes 2 no. supermarkets (each including off-licence use) of 1,948 sq.m GFA and 2,182 sq.m GFA,
  - 486 sq.m GFA of retail services floorspace,
  - 1,479 sq.m GFA of leisure floorspace,
  - 1,683 sq.m of café / restaurant floorspace,
  - a 388 sq.m GFA childcare facility,
  - 658 sq.m GFA of medical centre floorspace,
  - 3,812 sq.m GFA of cinema floorspace, and
  - 624 sq.m GFA of car showroom floorspace,
- along with all associated services, substation, and circulation floorspace.
- The development will provide for 440 no. residential apartments,
  - to include 308 no. Build to Rent apartments, within 4 no. blocks.
  - 132 Build to sell units (BTS)
- The proposed BTS apartments (132 no.) comprise:
  - 61 no. 1 bedroom units,
  - 60 no. 2 bedroom units, and
  - 11 no. 3 bedroom units within Block A.
- The Build to Rent (308 no.) apartments comprise:

- 121 no. 1 bedroom units,
  - 170 no. 2 bedroom units, and
  - 17 no. 3 bedroom units within Blocks B, C, and D.
- 1,278 sq.m GFA of resident's amenity floorspace is located within Blocks A, B, C, and D.
  - The development includes a series of open landscaped streets and green roofs and includes two levels of basement car parking and surface car parking to provide a total of 1,184 no. car parking spaces.
  - The development also includes 1,190 no cycle spaces at basement level, visitor cycle parking at ground level, shower and changing facilities, circulation areas, plant areas, service yards and fire escapes.
  - Block A is a part one to part eleven storey building over basement (level-1)/lower ground floor level and contains the following:
    - 132 no. apartments comprising
      - 61 no. 1 bedroom units,
      - 60 no. 2 bedroom units, and
      - 11 no. 3 bedroom units.
    - The building also accommodates resident's amenity space at lower ground, ground, and first floor levels, along with 2 no. café / restaurant units, a retail unit, and lobbies at ground floor level. External terraces are provided at first and tenth floor levels, with balconies to all elevations.
  - Blocks B, C, and D are part three to part nine storey buildings over basement (level -1)/lower ground floor, and basement (level -2) levels, surrounding 2 no. communal courtyard open spaces and contain the following:
    - 308 no. Build to Rent apartments comprising
      - 121 no. 1 bedroom units,
      - 170 no. 2 bedroom units, and
      - 17 no. 3 bedroom units.

- These buildings also accommodate resident's amenity space, a childcare facility, and waste storage areas at lower ground floor level, along with 3 no. retail units, 3 no. retail services units, and 1 no. café / restaurant unit at ground floor level, facing onto the main street.
  - Balconies are provided to all elevations.
- Block E is a four storey building over basement (level -1) level, and contains the following:
  - 3 no. café / restaurant units and office floorspace at ground floor level, with office floorspace at first to third floor levels.
- Blocks F and G are part two to part three storeys in height and are linked, surrounding an enclosed service yard accessed from the south, and contain the following:
  - 2 no. supermarket units (including off-licence use),
  - 8 no. retail units (2 no. of which include first floor / mezzanine levels),
  - 1 no. retail warehouse unit (which includes a first floor / mezzanine level),
  - 1 no. café / restaurant unit, and
  - entrances to the cinema, medical centre, and leisure use at ground floor level.
  - A leisure unit and medical centre are provided at first floor level, while a cinema (900 no. seats) is provided at first and second floor levels.
- Blocks H and I are six storey buildings over basement, and contain the following:
  - 1 no. café restaurant unit at ground floor level within Block H, and
  - A gym at ground floor level of Block I, with office space provided within both blocks from ground to fifth floors.
- Block K is a single storey car showroom building, located in the east of the subject site adjoining Glenamuck Road.
- Block J is a six storey building over basement level, accommodating office space at ground to fifth floor levels, located in the northwest of the site adjoining Ballyogan Road.

- This scheme includes the new Ballyogan Link Road through an extension of Northfield Road to Ballyogan Road to the north, (which is currently under construction in accordance with the permission granted under Reg. Ref: D18A/0257 and ABP Ref.: 304396-19 (subject to a separate current amendment application)).
- A roundabout is provided off Northfield Road which will provide a customer and servicing access and exit to / from the basement car park.
- The proposal provides for upgrades to Ballyogan Road, upgrades to Park Avenue and Glenamuck Link Road, including a new bus bay and pedestrian crossing along the Glenamuck Road.
- A vehicular entrance is proposed off the Ballyogan Link Road providing access to the basement car park via a ramp. 2 no. vehicular entrances will be provided from Park Avenue to the south (one with ramp access to the basement car park).
- A further 2 no. vehicular accesses are proposed from Ballyogan Road to the north. The proposed linear park is located on the northern part of the subject site, adjacent to the Ballyogan Stream, and has a total area of approximately 2.4 ha.
- The development includes the provision of pedestrian and cycle crossings of the Ballyogan Stream.
- The proposed development also includes the provision of a neighbourhood square located on the western part of the subject site.
- The proposal includes all hard and soft landscaping work, ESB substations, rooftop and internal plant, all associated site development works, waste management facilities, services, lighting, boundary treatments, and all other ancillary works.
- An Environmental Impact Assessment Report, which also constitutes and Environmental Impact Statement of the purposes of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001-2017, was prepared and accompanied the application.



## 2.2. Duration of Permission

- The current application seeks a ten-year permission for the proposed development. This is predicated on the likely construction timeline for the proposed development, the scale of the overall development, and the significant infrastructure works and phasing considerations associated with the proposals.

**Table 1: Key Statistics**

<b>Parameter</b>	<b>Site Proposal</b>	<b>Previous Permitted Development</b>
Application Site	10.4 ha	10.4 ha
No. of Units	440 apartments	130 apartments
Retail Warehouse	3,982 sq. m	11,154 sq. m
Retail & Supermarket	7,929 sq. m (net 5550 sq. m) 2 no. supermarkets (each incl. off – licence use of 1,948 sq. m and 2,182 sq. m)	(7,983 sq. m net 5588 sq. m) 2 no. supermarkets [to include off-licence use] (GFA of 1,725 sqm and GFA of 1,390 sqm)
Retail Service,	486 sq. m	552 sq. m
Leisure incl. Gym	1,479 sq. m	3,235 sq. m
Food & Beverage / café, restaurant	1,683 sq. m	3,210 sq. m
Cinema	3,812 sq. m / 900 seats	3,194 sq. m / 7 screen / 900 seats
Car showroom	624 sq. m	446 sq. m
Office	31,082 sq. m	17,647 sq. m (of which 4,667 sq. m is own door)
Medical Centre	658 sq. m / 11 Consultancy rooms	720 sq. m / 11 Consultancy rooms

Creche	388 sq. m	527 sq. m
Dual Aspect	53% (232 dual or triple aspect)	94% (no single aspect north facing apartments)
Building Height	2 - 11 Storeys (Max 36.87m)	2 – 6 storeys
Communal Open Space proposed Requirement for:	3028 sq. m 2752 sq. m	
Public Open Space provision:	47,572 sq. m (c. 4.7 ha) Exceeds the 10% requirement. Almost half of the overall site.	
Car Parking Bicycle Parking	1,184 1,190	1,020
Access	A vehicular entrance is proposed off the Ballyogan Link Road providing access to the basement car park via a ramp. 2 no. vehicular entrances will be provided from Park Avenue to the south (one with ramp access to the basement car park). A further 2 no. vehicular accesses are proposed from Ballyogan Road to the north.	
Part V	44 units	

**Table 2: The breakdown of proposed residential unit types is as follows:**

Unit Type	1 bed	2 bed	3 bed	Total
BTS Apartment	61	60	11	132
BTR Apartment	121	170	17	308

% Total	182 (41%)	230 (52 %)	28 (7%)	440 / 100%
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**Table 3 Comparison of % change in use from previous permitted scheme**

	<b>Proposed Development</b>	<b>Permitted scheme</b>
GFA	91,288sqm	83,996 sq. m
Residential component	36,485sqm	12,522 sq. m
Residential % of overall scheme	40%	15%
Office %	34%	6%
Retail Warehouse	4.3%	13%
Retail & Supermarket	9%	9.5%
Retail Service	0.5%	0.66%
Leisure incl. Gym	1.6 %	3.85%
Food & Beverage / café, restaurant	1.8%	3.8%

**Table 4: Proposed Retail Floorspace**

	<b>Gross Area sq. m</b>	<b>Net Area (70% of gross) sq. m</b>
Supermarket A	1,948	1,364
Supermarket B	2,182	1,527
Individual Units	4,868	2,659
Total	8,998	5,550

**2.3. The application was accompanied by the following documents and supplementary information:**

- Application form and attachments (including Letters of Consent from Muinellim Limited and Dun Laoghaire-Rathdown County Council).
- Draft BTR Legal Covenant prepared by the Applicant
- Part V documentation, including Brochure prepared by HJL.
- Architects (including Part V costs schedule and drawings indicating location of units)
- Cover Letter prepared by John Spain Associates.
- Letter from the Applicant confirming their purchase date of the site, and Validation Letter from Dun Laoghaire-Rathdown County Council Housing Department.
- Environmental Impact Assessment Report including Non-Technical Summary prepared by John Spain Associates and Consultants.
- Planning Report prepared by John Spain Associates.

- Social and Community Facility Audit prepared by John Spain Associates.
- Retail Impact Statement prepared by John Spain Associates.
- Architectural Drawings and Drawing Schedule prepared by Henry J. Lyons Architects.
- Architectural Design Statement including schedules of accommodation and areas prepared by Henry J. Lyons Architects.
- Apartment & Housing Quality Assessment prepared by Henry J. Lyons Architects.
- Dual Aspect report prepared by Henry J, Lyons Architects.
- Urban Design Statement prepared by Urban Initiatives.
- Economics Report prepared by Ernst and Young (EY).
- Sunlight and Daylight Assessment Report prepared by 3D Design Bureau.
- Photomontage Brochure prepared by 3D Design Bureau.
- Landscape Drawings, Drawing Schedule, and Landscape Design Report prepared by Townshend Landscape Architects.
- Engineering Drawings, Drawing Schedule, Engineering Services Report, and Construction Management Plan prepared by OCSC Consulting.
- Flood Risk Assessment prepared by RPS Consulting Engineers.
- Traffic and Transport Assessment Report, Mobility Management, Stage 1 Road Safety Audit, and Quality Audit prepared by Atkins Consulting Engineers and third-party auditors.
- Roads Engineering Drawings prepared by Atkins Consulting Engineers.
- Energy Statement Report, Utilities and Services Report, and Site Lighting Plan and Report prepared by OCSC Consulting.
- Arborist Report and Drawings prepared by Joe Mcconville Arboricultural Consultants.
- Screening for Appropriate Assessment Report prepared by EnviroGuide Consulting.
- Climate Change Impact Assessment prepared by John Spain Associates in association with OCSC, HJL Architects, Atkins, and BECL.

- Telecommunications Report prepared by ISM.
- Aviation Impact Assessment prepared by O'Dwyer Jones Aviation Planning Consultants.
- Build-to-Rent and Property Management Plan prepared by Aramark.
- Building Lifecycle Report prepared by Aramark.
- Operational Waste Management Plan prepared by AWN Consulting.
- Construction and Demolition Waste Management Plan prepared by AWN Consulting

### 3.0 Planning Authority Decision

#### 3.1. Decision

DLRDCC Refused Planning Permission for the following two reasons:

1. As set out in the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022 and the Ballyogan and Environs Local Area Plan 2019 – 2025 (BELAP), there is a limited quantum of undeveloped 'E' zoned economic development and employment lands available within the County. The 'E' zoned lands at The Park, Carrickmines, are considered suitable for significant additional employment related development to facilitate continued economic development and employment growth. Policy BELAP EMP2 of the Ballyogan and Environs Local Area Plan 2019 – 2025 seeks to encourage and facilitate proposals for high intensity employment at The Park, Carrickmines, and a cautionary approach is to be taken towards any supplementary uses. Having regard to the significant proportion of residential use proposed within the overall scheme, it is considered that a satisfactory balance of uses would not be achieved on this site, contrary to Policy E8 of the current County Development Plan. Policy E8 states it is Council policy to achieve a satisfactory balance with regard to the residential component of development on lands zoned Objective 'E' to ensure that such lands remain available to facilitate their primary objective for the lands which is the encouragement of enterprise and the creation of employment. The currently proposed layout and phasing of the scheme, comprising stand-alone residential blocks, further emphasises the overtly residential prominence of this scheme, undermining

the vision for the Neighbourhood Quarter 15, Carrickmines Quarter set out in the BELAP which is to support the delivery of a Neighbourhood Centre for the northeast quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for employment. Therefore, the proposed development would be contrary to Policy BELAP EMP2 of the Ballyogan and Environs Local Area Plan 2019-2025, undermine Policy E1 of the County Development Plan which seeks to ensure that sufficient serviced lands continue to be available for employment generation, would be contrary to Policy E8 of the County Development Plan as a satisfactory balance will not be achieved, and contrary to the zoning objective of the area, which is 'E' to provide for economic development and employment, and would therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its scale, height and massing, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposal is considered to be contrary to the Section 8.3.2 (Transitional Zonal Areas) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022, insofar as it would represent an abrupt transition in scale within this transitional location between the employment zoned land and the open space zoned land. The proposed development is also considered to be contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). It is also considered to be contrary to the Ballyogan and Environs Local Area Plan 2019 – 2025, Policy BELAP RES4, Locations for Higher Buildings, as the proposed use mix, within the overall scheme, in this case, is not considered to be in accordance with the 'E' Zoning Objective of the lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

## 3.2. Planning Authority Reports

### 3.2.1. The Planning Report is summarised as follows:

- The report considers that the proportion of residential use proposed would be excessive given the primary objective of the lands which is the encouragement of enterprise and the creation of employment, that a satisfactory balance.... would not be achieved with regard to the residential component of development on lands zoned Objective 'E' contrary to Policy E8 of the CDP and furthermore, it is considered that the proposed development would undermine Policy E1 of the CDP which seeks to ensure that sufficient serviced lands continue to be available for employment generation.
- The emphasis on residential use within the current scheme is of serious concern to the Planning Authority having regard to the 'E' zoning of the lands. This emphasis is further noted when looking at the planning history of the site. In the previous scheme the residential component was integral to the neighbourhood centre. Blocks A, B and C included retail use, retail service use and retail warehousing use at ground level with residential above. The current scheme comprises of a series of stand-alone buildings with separate uses, for example, Block A comprises of residential use only. This, it is considered, undermines the vision the Neighbourhood Quarter 15, Carrickmines Quarter set out in the BELAP to support the delivery of a Neighbourhood Centre for the northeast Quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for employment.
- The assessment notes that the extant permission permitted under Reg. Ref. D18A/0257 (ABP Ref. 304396-19) on the subject site was granted for a mixed-use neighbourhood centre development comprising a gross floor area of 83,996sqm, excluding basement car parks, in four blocks varying in height from two to six storeys.
- Block J of the current application is a stand-alone six-storey over basement level building accommodating office space at ground to fifth floor levels, located in the northwest of the site adjoining Ballyogan Road. Block J compares in position and height with the permitted Block D under Reg. Ref: D18A/0257 (ABP Ref. 304396-19). It is considered that the setting of Block J



and the proposed landscaping will provide a successful transition between the employment zoned land, the residential zoned land and the open space zoned land

- Block A of the current application accommodates the residential ('non-BTR') portion of the proposed development, with the highest built element of the scheme, with a maximum height of 11 no. storeys.
- Blocks B, C, and D are part three to part nine-storey buildings over basement and front onto the lands zoned 'F' open space and proposed for use as a new landscaped neighbourhood park.
- Having regard to the scale and height of the blocks proposed, in particular Blocks A, B, C and D, it is considered that the development would represent an abrupt transition in scale within this transitional location between the employment zoned land and the open space zoned land.
- The Planning Authority notes that the surrounding area is residential and is rapidly growing. In accordance with the SLO 131, the Planning Authority considers the site is the appropriate location for a neighbourhood centre to serve the new and emerging communities and will ensure that the neighbourhood centre's shopping, leisure and community needs of this developing area are met in a sustainable manner. The proposed development is for a new neighbourhood centre area of below 6000sqm which accords with the SLO 131.
- It is considered that the proposed retail warehouse component and the proposed office component of the development would be acceptable in this instance and would be in compliance with Council policy regarding same and would accord with the zoning objective of the site.
- Section 8.2.3.3(iii) of the CDP regarding Mix of Units, states the following: '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 '
- With regards to apartment mix, the Build-to-Sell unit mix proportion of 1 bed units (at 46%) would not accord with the provisions of Section 8.2.3.3(iii) of the CDP regarding Mix of Units.

- With regards to apartment mix, the Build-to-Rent unit mix proportion of 1 bed units (at 40%) would not accord with the provisions of Section 8.2.3.3(iii) of the CDP regarding Mix of Units.
- It is however noted that the proposed mix of apartment units on the subject site would accord with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- "The proposed units have access to private amenity space which exceeds the minimum requirements as per Annex 1 of the 2018 Apartment Guidelines. Many of the proposed units significantly exceed the minimum requirements in this regard. 11
- The Planning Authority notes the above and that SPPR 8 allows for flexibility for the provision of compensatory amenity space instead of private open space for Build-to-Rent units, however this is not relied on for the current application and all units, including BTR units, comply with the required standard.
- While the Planning Authority considers that the proposed layout, architectural language and design, the proposed public realm and landscaping is of very high quality and has the potential to contribute to an attractive and vibrant neighbourhood centre, it is considered that the proposed development, by reason of its overall height, massing and scale, would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment and existing established pattern of development in the immediate vicinity of the subject site.
- The planners report highlights consultations on the EIAR occurred with internal departments within the Local Authority who have relevant expertise in certain matters (transport, drainage, biodiversity, etc.). In addition, the Department of Housing, Local Government and Heritage, and Inland Fisheries Ireland, provided comments and recommendations which were duly considered.
- Having considered the EIAR and the proposed mitigation and monitoring measures proposed, Further Information would be required with respect to a

number of chapters within the EIAR in order to allow for a full assessment of the application to be undertaken.

These chapters included:

5. Biodiversity

7. Water

8. Landscape and Visual Impact

15. Summary of EIAR mitigation and monitoring measures

- It is concluded that the proposed development would not be consistent with the zoning objective for the site and specific policies of the CDP and BELAP. Given the overall degree of inconsistency, it is considered that the issues highlighted cannot all be readily addressed by way of conditions or through amendments by way of a request for Further Information.
- In this regard, the Planning Authority considers that any future planning application for the development of the subject lands should have due regard to various issues and concerns raised throughout the foregoing assessment of the EIAR.
- It is considered that the concerns highlighted cannot all be addressed by way of conditions or through amendments by way of a request for Further Information, having regard to Articles 33 and 34 of the Planning and Development Regulations, 2001 (as amended). It is on this basis, that a refusal of permission is recommended.
- A refusal of planning permission is recommended in this instance, any future planning application for the development of the subject lands should have due regard to the comments / recommendations of sections and the various issues and concerns raised throughout the foregoing assessment including matters raised pertaining to Transportation, Drainage, Parks and Landscaping, Housing, Biodiversity, Public Lighting, Environmental Health (Air and Noise), Archaeology and including matters raised by Inland Fisheries, NTA and TII.

### 3.2.2. Other Technical Reports

#### **Transportation Planning report.**

- The report outlines the main elements of the scheme in relation to transportation which includes access to parking, bus services, pedestrian facilities, cycle network and parking, car parking facilities, underground car parks and cycle parking facilities.
- The report notes a proposed shortfall of 44 no. car parking spaces for residents is not deemed acceptable. The report also notes the reduction in residential car parking spaces proposed would warrant an uplift in cycle parking required to meet the DHPLG required parking standards as above of 220 short stay and 726 long stay cycle.
- The report recommends requesting Further Information on matters pertaining to the quality and road safety audit, the car parking management strategy, taking in charge, toucan crossing, autotrack drawings, pedestrian and cyclist priority, priority cycle access to the Greenway and Jamestown Park, car parking spaces, underground parking layout, details of car sharing and car clubs, cycle parking shown designed in accordance with the Dun Laoghaire Rathdown County Council - Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018), details of shower and locker facilities for proposed office and neighbourhood centre staff, drawings of cargo bike and e-bike cycle parking facilities, electric charging points, bus stop design and location and delineated pedestrian routes.
- The report also recommends requesting Further Information in relation to a number of items with regard to the construction of the development in accordance with a Construction Management Plan, including in relation to the site and materials compound, construction site access arrangements, location of construction site offices and staff facilities, on site car parking for workers, timing and routing of construction traffic, measures to obviate queuing, alternative arrangements for pedestrians and vehicles and details of hoarding.

## Drainage Planning Report

- The report contains comments and recommendations in relation to surface water drainage and flood risk assessment.
- With respect to surface water drainage, the report recommends requesting Further Information. Matters required to be addressed include: how the link road (Northfield Road extension) attenuation system interacts with the proposed scheme, compatible drainage drawings, landscape drawings and engineering drawings, details of drainage catchment areas, details of basement level attenuation structures, green roof extents, drainage details for the apartment access road, interactions between a tank under the access road and foul and watermain services, suitably legible storm water audit, details of flow control devices, details of storage systems, long-sections of the surface water drainage system, details of a utilities clash check and details of all proposed SuDS measures.
- The Applicant has submitted a Site-Specific Flood Risk Assessment, prepared by RPS Group.
- With respect to flood risk assessment, the Drainage Planning report recommends requesting Further Information pertaining to: comparisons between the proposed scheme and the approved scheme, analysis of the diverted stream, cross sections showing cut and fill levels, flood depths for both existing and proposed scenarios in the 1% and 0.1% AEP events, maximum flood level throughout the site, cross sectional details of the underpass on the new link road currently under construction, detailing the proposed ground levels, the flow levels during normal events, and 0.1% flood events, as well as any services in the area, conveyance mechanism to allow flood waters flow through the site, details of the proposed bridges/culverts and A1 size drawings of relevant flooding maps, Engineering Services Report and drawings.
- With respect to the EIAR, the Drainage Planning report notes that the Flood Risk Assessment carried out by RPS group has determined the impact of the proposed works on the Ballyogan Stream during the critical 1 in 10 storm events however, no details of the 1 in 10 storm event have been included. The Drainage Planning report recommends requesting details of all critical storm events assessed.

## **Biodiversity Report**

- The report notes that documentation in respect of the proposed development at Quadrant 3 has been reviewed including: the Environmental Impact Assessment Report (EIAR) and the Appropriate Assessment (AA) Screening Report, along with other project details included in the various other documents.
- The report recommends requesting Further Information as well as addressing inconsistencies between EIAR chapters and drawings.
- With respect to EIAR Chapter 5, Biodiversity, the report recommends requesting Further Information in relation to habitats and botanical surveys, bats, breeding birds, aquatic habitats and amphibians, invasive species, vegetation clearance, mitigation measures, monitoring and omissions.
- With respect to Appropriate Assessment, the report recommends requesting Further Information in relation to matters pertaining to omissions and inconsistencies.
- With respect to EIAR Chapter 8, Landscape (and associated drawings) the report recommends requesting Further Information in relation to matters pertaining to tree planting plan, soft planting, planting specifications of species, and recommends that an overall planting regime be set out in a revised Landscape Master Plan and explained in a revised Landscape Chapter 8 in the EIAR.
- With respect to the Lighting Plan, the report recommends requesting Further Information in the form of a revised lighting plan which sets out the measures to be implemented in respect of bat protection during construction and operation, as agreed with the bat specialist.
- With respect to Invasive Species management, the report recommends requesting Further Information in the form of An Invasive Species Management Plan prepared by a suitably qualified Invasive species specialist, that will be also be incorporated into relevant sections of the EIAR, the CEMP and OEMP.
- With respect to Construction Environmental Management (CEMP), the report recommends requesting Further Information in the form of a Construction Management Plan to include matters pertaining to but not exclusively, the protection of species and habitats, monitoring programme for habitats and

species during construction, retention of a suitably qualified Project Ecologist / Ecological Clerk of Works during construction and retention of a suitably qualified invasive species specialist to ensure compliance with the Invasive Species Management Plan during construction.

- With respect to the Operations Environmental Management Plan (OEMP), the report recommends requesting Further Information in the form of a detailed OEMP that will include but not exclusively, table of mitigation and enhancement measures, schedule of monitoring and maintenance post construction and during operations, retention of a suitably qualified Project Ecologist/ Ecological Clerk of Works to ensure that the necessary measures are implemented; to oversee habitat creation and enhancement and to conduct ecological monitoring and retention of a suitably qualified invasive species specialist to ensure compliance with the Invasive Species Management Plan.

### **Housing Report**

- The report notes that the residential element of the proposed development comprises both Build-to-Rent and Build-to-Sell.
- The reports also notes that the applicant states that they reserve the right to avail of any of the six types of Part V compliance options as set out In the DHPLCG housing Circular 36/2015, Section 96(3). The Housing Department also notes that the submission includes a proposal to comply with the Part V requirement for the proposed development by way of transfer of 44 residential units on site to the Council at a total indicative cost of €23,655,858 inclusive of VAT comprising; 25no. 1-bedroom units, 8 no. 2-bedroom(3P) units and 11no.2-bedroom(4P) units with an average indicative unit cost of €537,633.14. The report notes that while these costs exceed the Council's acquisition costs thresholds, it is acknowledged that the costs at this juncture are estimated.
- The report notes that it is the Council's priority to acquire residential units for social housing and in line with recent announcements by the Department of Housing on Government policy to phase out long-term leasing of social housing. The Housing Department's report states that the Council will seek to progress the build and transfer of units on-site into its ownership as the preferred method of compliance with the provisions of Part V.

- The report concludes that any proposal for Part V will be subject to planning permission, funding being made available, and agreement being reached on Land Values.

### **Public lighting**

- The Public Lighting report notes that this application has a different layout to the previously agreed design. The lighting design document submitted only has the light locations on it.
- Further information is required with respect to the need for a full lighting design report including more detailed information on the light specifications and a lux contour diagram to the 2/ux line.
- Further information is required with regard to a taking-in-charge map showing which lights will be TIC by DLR and where the electricity supply for them will come from.

### **Parks & Landscape Services Report**

- The report recommends requesting Further Information in relation to matters pertaining to landscape master plans, location of engineering services and utilities, tree root protection areas, play spaces, confirmation of topographic levels of flood risk, details to ensure potential flood risk to open space is eliminated to avoid any safety risk, alternative design layout for play on the north east in Area 1, drainage details, proposals for more outdoor exercise gym equipment, provision of site specific 'Way-Finding Strategy' and access to public open space without restriction.

### **Environmental Health Officer Report (Air and Noise)**

- The report provides observations and recommendations and states that the proposal is acceptable subject to conditions pertaining to, a final construction environment management plan being agreed with DLR prior to the commencement of development, control of noise and vibration and during the operational phase, and the control of noise and odour and waste management.



### 3.3. Prescribed Bodies

#### **An Taisce Report**

- The report states that the increase in scale of the proposed development from the development permitted per Reg. Ref. DISA/0257 is too great for the location, taking into account the transport infrastructure. An Taisce considers the proposed development too car-dependent and notes reliance is made on proximity of the site to the Ballyogan Wood stop on the LUAS Green line and considers that the development should be assessed with regard to the capacity of same. The report highlights a number of Strategic Housing Development permissions in the area. The report also notes if the Planning Authority were minded to grant permission that it would be subject to a condition regarding archaeological assessment before development commences, similar to condition No. 18 on the previous permission under ABP-304396-19.

#### **Department of Housing, Local Government and Heritage**

- The report recommends archaeological monitoring conditions to ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

#### **NTA Report**

- The National Transport Authority report provides observations and recommendations based on the Transport Strategy for the Greater Dublin Area 2016 - 2035 (the 'Transport Strategy') and the National Cycle Manual.
- The report notes the proposal represents an intensification of development when compared to the development permitted per Reg. Ref. D18A/0257 and highlights a lack of clarity regarding the term 'offset' where the applicants planning report states 'the increase in residential provision is offset by increased commercial floorspace on site.' (section 1.2) The NTA report also states 'it would appear that the office floorspace provision has been increased potentially to allow for

an increase in the quantum of residential use in the subject application while remaining in accordance with 'Policy E8: Residential Use in Employment Zoned Land'.

- The report notes an expected increase in employees of 4,000 and residents of 1,424 and potential trip-making generated in conjunction with the current uses on site in The Park. The report states that it is imperative that development does not give rise to unsustainable levels of car-borne commuting both inbound and outbound. The report notes that supply and management of car parking at destinations is central to managing travel demand.
- The report notes the quantum of parking proposed at 1,184 would be below the maximum permitted by the County Development Plan however is considerably higher than the 710 spaces permitted by An Bord Pleanála in the appeal case on the previous application (Condition 17(b)). The NTA submits that the Applicant has not adequately demonstrated a rationale for the quantum of parking proposed. The NTA also notes condition 4 of the previous application which required the Applicant and the Planning Authority to agree a car parking management strategy for the wider area.
- With respect to car parking, the NTA report recommends that the Applicant further consider the quantum of car parking proposed and that a car parking management strategy, taking into account the full extent of The Park and its existing car parking provision, should be prepared.
- With respect to cycle infrastructure design, the NTA report notes revisions proposed include amending the current two-way cycle track on the west side of Glenamuck Road to provide for a one-way northbound cycling only on a portion of the route. The NTA is not clear why this has been provided and the revised layout represents a reduction in Quality of Service when compared with the existing facility.
- The NTA report also notes a two-way cycle track is proposed on the southern side of Ballyogan Road, which would provide an important

link for cyclists travelling between the new Ballyogan Link Road (Northfield Extension) and Junction 14 of the M50. While the NTA states it is supportive of this facility, the NTA notes that further consideration of its design is required where it crosses the new junctions on Ballyogan Road.

- The NTA recommends that the two-way cycle track on Glenamuck Road should be retained and enhanced, and that the design of the two-way cycle track on Ballyogan Road should be reviewed, informed by guidance contained in the National Cycle Manual.

### **Irish Water Report**

The Irish Water report recommends that conditions are attached in the event of a grant of planning permission. The recommended conditions relate to a connection agreement, compliance with standards, codes and practices, and separation distances.

### **Inland Fisheries Ireland**

- The proposed development is located on the Ballyogan Stream in the catchment of the Loughlinstown River. The Loughlinstown system is exceptional among most urban river systems in the area in supporting migratory Sea trout in addition to resident population of Brown Trout.
- 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.
- Top soil stored on site must have mitigations.
- Detailed method statement must be agreed in advance with IFI for installation of footbridges over the Ballyogan Stream and associated bankside protection.
- Any dewatering of ground water during the excavation of the basement area must be treated by infiltration over land or into an attenuation area before being discharged off site. A discharge license may be required from Dun Laoghaire Rathdown County Council.

- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.
- IFI have recently published the following guidelines which should also be referred to should planning be granted. They can be accessed on our website [www.fisheriesireland.ie](http://www.fisheriesireland.ie). Revised 'Planning for watercourses in the urban environment' which can provide guidance on site specific measures to enhance, protect, rehabilitate or establish riparian and aquatic habitats.

### **TII Report**

- The report considers that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. The report recommends the following in summary:
- In the interest of safeguarding the strategic function of the M50 and adjoining Junction 14, it is critical that the transport mitigation measures included in the permission per Reg. Ref. D18A/0257 (ABP Ref. 304396-19) are fully incorporated into the subject application and their implementation included as conditions in any permission granted.
- Noting condition No. 4 and condition No. 17(b) of the permitted development, TII considers that the aspect of the development, ie. The justification for the level of car parking proposed and the requirement for a (area-based) car parking management strategy agreed between the Council and the Developer, requires resolution prior to any decision in the interest of safeguarding the strategic function of the national road network in the area.
- The Council could also consider the requirement for a car parking study/exercise to inform the above requirements and to establish the potential for existing parking spaces in other phases of the Park development to be used to serve the current development proposal and reduce overall parking supply in the area.
- The report also observes that the proposed development falls within the area set out in the Dun Laoghaire-Rathdown County Council adopted Section 49 levy scheme for Luas Line B1 under the Planning and Development Act 2000 Luas

Line B1 (Green Line). A levy should apply in the event of a grant of planning permission.

### 3.4. **Third Party Observations**

None received.

## 4.0 **Planning History**

4.1. There is an extensive planning history within the site pertaining to individual buildings/roads/sites in addition to an extensive history in the vicinity. I refer the Board to the summary provided in the Planning Authority's Area Planner's reports on file.

4.2. I note the following to be of particular relevance:

**ABP Ref. 304396 – 19 / D18A/0257** Permission granted for a mixed-use neighbourhood centre. (Sept 2019)

The development as originally applied for was described as follows in summary:

"The proposed development comprises a Gross Floor Area (GFA) of 83,996 sq.m, excluding the basement car parks, in four blocks varying in height from two to six storeys. The maximum height of the proposed development is 29.4 metres. Blocks A, B & C includes 130 no. residential units (GFA of 12,522 sq.m), 7,983 sq.m GFA of retail floorspace, which includes 2 no. supermarkets [to include off licence use] (GFA of 1,725 sq.m and GFA of 1,390 sq.m), 11,154 sq.m GFA of retail warehousing floorspace, 552 sq.m GFA of retail services floorspace, 3,210 sq.m GFA of restaurant / cafe floorspace, 4,667 sq.m GFA of own door office floorspace, 527 sq.m GFA creche, 446 sq.m GFA car showroom, 720 sq.m GFA medical centre, 336 sq.m GFA management suite, 3,235 sq.m GFA of leisure floorspace, which includes a 590 sq.m leisure unit for an indoor skydiving facility, 7 no. screen cinema with a GFA of 3,194 sq.m, 3 no. kiosks with a GFA of 37 sq.m and all associated service and circulation floorspace. The office building (Block D) includes 12,980 sq.m GFA of office floorspace and two levels of basement car parking containing 130 no. spaces. The development comprises of a series of open landscaped streets and green roofs, and includes two levels of basement car parking containing 966 no. car parking spaces, 54 no. of surface car parking space, cycle spaces, shower and changing

facilities. Circulation areas, plant areas, service yards and fire escapes (GFA of 22,433 sq.m).

- 4.3. The permitted development included the provision of 5,588 sq. m of net retail floorspace, in addition to over 11,000 sq.m of retail warehouse floorspace. The proposed development represents a reduction on the level of retail floorspace provision, and a significant reduction on the level of retail warehouse floorspace.
- 4.4. **D21A/1115** Permission Granted (13 January 2023) for retention and completion of modifications to lands known as Quadrant 3, The Park, Brookfield, Glenamuck Link Road, (also known as Glenamuck Road) and Ballyogan Road, Carrickmines Great and Jamestown, Dublin 1

## 5.0 Policy Context

### 5.1. Relevant National Planning Policy and Section 28 Ministerial Guidelines

- Climate Action Plan 2023
- National Planning Framework (NPF) (2018)
- Project Ireland 2040: National Planning Framework (2018, DoHPLG).
- Regional Spatial and Economic Strategies (RSES) for the Eastern and Midland Region (2019-2031).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2022, DoHPLG)
- Spatial Planning and National Roads Guidelines for Planning Authorities (2012)
- Design Manual for Urban Roads and Streets (2013)
- Urban Design Manual - a Best Practice Guide (2009, DoEHLG)
- Sustainable Residential Development in Urban Areas - Cities, Towns & Villages (2009, DoEHLG)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)
- Guidelines for Planning Authorities on Childcare Facilities (2001)

## 5.2. Development Plan

### Other Dun Laoghaire-Rathdown County Council Guidance Documents

Standards for Cycle Parking and associated Cycling Facilities for New Developments (January, 2018).

4.1.1 The proposal was assessed by the PA under the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. However, the operative County Development Plan is now the newly adopted Dun Laoghaire Rathdown County Development Plan 2022 – 2028.

4.1.2 The relevant 2022 CDP map-based/ mapped designations include:

The subject site retains the same primary zoning objectives under the new CDP. The majority of the subject site is zoned land use objective 'E' – "To provide for economic development and employment".

A portion is zoned 'F' – "To preserve and provide for open space with ancillary active recreational amenities.

And a smaller parcel is zoned 'A' – "To provide residential development and improve residential amenity while protecting the existing residential amenities," (Map 9 of the new CDP refers)

One of the two objectives to protect trees and woodland has been removed (to correct an anomaly in the current plan, whereby the westernmost objective on site does not relate to an area accommodating any trees).

The SLO pertaining to the subject site has been re-numbered, now SLO 82, under the New Plan, with an alteration to the SLO wording as follows: "To provide for the development of a Neighbourhood Centre in the north-east 'quadrant' of the Park, Carrickmines, with a net retail floorspace cap of 6000 sq. m, (approximately), and a leisure facility, to assist the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan, Glenamuck, while also protecting employment use at this location. Any future development of the northeast quadrant should ensure that the Ballyogan link road, parkland area and greenway

(as pertaining to the lands) are completed and available for use by the general public before occupation of development”.

**The following section of the CDP 2022 – 2028 are of relevance:**

## **Chapter 2 Core Strategy**

### **2.4.8.1 RSES and the Dublin MASP**

#### **2.4.8.2 Employment in DLR**

In terms of lands zoned primarily for employment use there is approx. 250 hectares of employment zoned lands in the County. The Sandyford Business District is the largest cluster of employment zoned land in the County comprising c. 96 hectares. Other significant clusters of employment zoned land are located at Carrickmines (c. 50 ha)...

... In terms of land use capacity for employment uses there are c. 26 hectares of undeveloped Objective ‘E’ zoned lands located at Carrickmines, part of which includes a Specific Local Objective for a Neighbourhood Centre. A smaller undeveloped parcel of c. 2.4 hectares is located to the north of Bray Town.

#### **2.4.8.4 Demand for Employment Zoned Lands**

Calculating as a rough estimate, a requirement for 20sq.m of commercial floorspace per employee, it is possible that based on the jobs forecast for the County, there may be a demand for up to c. 360,000sq.m of commercial floorspace over the lifetime of the County Development Plan. It is considered that the undeveloped employment zoned lands at Cherrywood and Carrickmines, in addition to brownfield lands suitable for development throughout the County, including lands at the Sandyford Business District, can accommodate this estimated level of demand. In this regard it is considered that a sufficient quantum of employment zoned lands are available to facilitate continued economic development and employment growth in the County over the Plan period. It is noted, however, that the extent of the employment landbank in DLR is quite low in comparison to adjoining Counties in the MASP area and as such, there is an enhanced need to retain and protect these lands for employment purposes.



## **Policy Objective CS6 – Lands for Employment Use**

It is a Policy Objective to ensure that sufficient serviced lands continue to be available for employment generation.

### **Section 2.4.8.5 Employment Strategy**

#### **Table 2.15: Strategic Employment Locations**

Carrickmines: Key strategic employment location for High Intensity Employment situated on the Luas Green Line aligning employment growth with both existing and new residential communities.

### **Chapter 3 Climate Action:**

Supports the implementation of the DLR CCAP

Supports Government and sectoral plans

Supports the work of EMRA, Dublin CARO and Codema on climate action and takes on board research project to monitor progress regarding GHG emissions

Promotes high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings

Supports and promotes the use of structural materials that have low to zero embodied energy and CO2 emissions

Supports renewable energy

Supports district heating and the development of County wide policy

Supports the decarbonising of motorised transport including public EV charging network Supports an urban greening approach

## **Chapter 4. Neighbourhood - People, Homes and Place**

### **4.3.2 Housing Choice**

#### **4.3.2.1 Policy Objective PHP25: ‘Housing for All – A new Housing Plan for Ireland, 2022’**

##### **4.3.2.2 Policy Objective PHP26: Implementation of the Housing Strategy**

It is a Policy Objective to facilitate the implementation and delivery of the Housing Strategy and Housing Need Demand Assessment (HNDA) 2022 - 2028.

The Housing Strategy and HNDA in Appendix 2 provides a detailed analysis of the County's existing housing profile which forms a basis for housing demand generally and social housing provision. The provisions of the Housing Strategy and HNDA will guide new residential developments in terms of the form of housing that may be required within the County.

Not more than 20 per cent, of (i) the land zoned for residential use, or for a mixture of residential and other uses, and (ii) any land which is not zoned for residential use, or for a mixture of residential and other uses, but in respect of which permission for the development of houses is granted, shall be reserved for the provision of housing in accordance with Part V of the Planning and Development Act 2000 (as amended). In this regard, an Applicant will be required to engage with the Planning Authority at an early stage to ascertain any specific requirements in relation to their Part V obligation.

Specific exemptions to Part V where no or a reduced social element may be acceptable are:

- Purpose built and professionally managed student accommodation (refer also to Policy Objective PHP29);
- Semi-independent or supported living accommodation for older people or persons with a disability (refer also to Policy Objective PHP30).

All proposed residential development, or mixed use development with a residential component, shall clearly demonstrate how the resultant mix of house type proposed has had due regard to the Housing Strategy and HNDA and complies with the policies set out hereunder with regard to providing appropriate housing choice.

#### **4.3.2.3 Policy Objective PHP27: Housing Mix**

It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

The Planning and Development Act 2000, as amended, requires Development Plans to take into account the need to ensure that an appropriate mixture of house types, sizes and tenures is developed to reasonably match the requirements of different categories of households and the demographics of an area.

The detailed analysis carried out as part of the Housing Strategy and HNDA (see Appendix 2) has indicated that in terms of age group and family type, while the County has a high level of retired families, DLR displayed an increase in the intercensal period 2011 – 2016 in population in the 40 - 46 age category, an increase in children under five and concentrations of what are called pre family households in Dún Laoghaire Town and in the Sandyford Urban Framework Plan area. This indicates that there is a requirement for a wide variety of residential types and sizes in order to give a real choice of homes and also to build sustainable neighbourhoods.

#### **4.3.2.4 Policy Objective PHP28: Build-to Rent and Shared Accommodation/ Co-living Developments**

It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 (and any amendment thereof).

Proliferation of Built to rent should be avoided in any one area. As the HNDA does not support provision of shared accommodation there shall be a presumption against granting planning permission for shared accommodation/co-living development.

The HNDA (See Appendix 2) has not identified any specific demand for shared living accommodation, there is, therefore a presumption against provision of same.

**Build-to-rent (BTR) accommodation** will be facilitated at appropriate locations across the County in accordance with land use zoning objectives. For the avoidance of doubt, BTR is:

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

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

#### **4.4 Place**

Quality design and healthy placemaking are emphasised throughout the NPF and RSES, improving quality of life for all. The NPF states that: “quality of design is critical for making places attractive and distinctive. Architectural quality and well-designed spaces can help to enhance our urban areas and create desirable places in which people want to live, work or visit and contribute to ongoing quality of life and well-being.” Healthy placemaking incorporates high quality urban design with promoting active lifestyles through good quality pedestrian and cycling links, particularly to and from places of work, education and recreation. The various strands of healthy placemaking, as taken from the RSES are illustrated in Figure 4.2. Healthy placemaking in DLR will require the application of a number of various policy objectives and guiding principles contained throughout this plan. In promoting high quality design and healthy placemaking, the plan has had regard to the policy and guidance contained in Appendix 12

##### **4.4.1.1 Policy Objective PHP35: Healthy Placemaking**

It is a Policy Objective to:

- Ensure that all development is of high quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES.
- Promote the guidance principles set out in the ‘Urban Design Manual – A Best Practice Guide’ (2009), and in the ‘Design Manual for Urban Roads and Streets’ (2013).
- Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

#### **4.4.1.8 Policy Objective PHP42: Building Design & Height**

It is a Policy Objective to:

- Encourage high quality design of all new development.
- Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).

The Council will actively promote high quality design in all development across the County. In order to achieve quality places to live, the residents, workers and visitor to DLR should enjoy good quality building stock that meets the needs of their occupants and that protects and/or enhances the quality of public spaces. (Refer also to Chapter 12, Section 12.3.1.1 'Design Criteria')

The Council policy in relation to building height throughout the County is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5):

- Policy Objective BHS 1 – Increased Height.
- Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).
- Policy Objective BHS 3 – Building Height in Residual Suburban Areas.

The BHS also contains a detailed set of performance based criteria for the assessment of height so as to ensure protection of the unique amenities of the County whilst also allowing increased height.

In accordance with the policies set out in the BHS, where an argument is being made for increased height and/or a taller building and the Applicant is putting forward the argument that SPPR 3 of the 'Urban Development and Building Height; Guidelines for Planning Authorities' (2018) applies, the Applicant shall submit documentation to show that compliance with the criteria as set out in Table 5.1 'Performance Based Criteria' of the BHS (see Appendix 5).

#### **4.4.1.10 Policy Objective PHP44: Design Statements**

It is a Policy Objective that, all medium-to-large scale and complex planning applications (30 + residential units, commercial development over 1,000 sq.m. or as otherwise required by the Planning Authority) submit a 'Design Statement' and shall be required to demonstrate how the proposed development addresses or responds to the design criteria set out in the 'Urban Design Manual - A Best Practice Guide' (DoEHLG, 2009) and incorporates adaptability of units and/or space within the scheme.

### **Chapter 5. Transport and Mobility**

### **Chapter 6 Enterprise and Employment:**

#### **Policy Objective E1 – Local Economic Community Plan**

It is a Policy Objective to support the review and preparation of a new Local Economic Community Plan for Dún Laoghaire-Rathdown to ensure the local level framework is in place to support economic growth and community improvements. (Refer also to Section 4.2.2.1, Policy Objective PHP12)

#### **6.3.3 Demand for Employment Zoned Lands**

A key objective of the Plan is to ensure that sufficient serviced lands are available for employment generation and the plan-making process must include an assessment of the adequacy of the existing employment zoned lands and consider whether additional lands may be required to meet employment needs over the Plan period. The main areas of presently undeveloped employment zoned lands in the County are located at Carrickmines and Cherrywood, as well as a smaller parcel of land to the north of Bray Town.....

... The Core Strategy of this Plan has concluded that there are sufficient employment zoned lands to meet estimated demand over the lifetime of the Plan. It is noted, however, that the extent of the employment landbank in DLR is quite low in comparison to adjoining Counties in the MASP area, and in this regard, there is an enhanced need to retain and protect these strategically located employment lands for employment purposes in line with their RSES designation which extends beyond the lifetime of the Plan. Policy Objective CS6 of Chapter 2 'Core Strategy' provides

that it is a policy to ensure that sufficient serviced lands continue to be available for employment generation.

#### **6.4.2.9 Policy Objective E10: Office Development**

It is a Policy Objective to facilitate significant additional office development in employment and commercial centres. The appropriate locations for office development would generally be in employment zoned areas, Major Town Centres and District Centres.

Office developments will generally be considered appropriate in employment zones, Major Town Centres and District Centres. The extent of the employment landbank in DLR is quite low in comparison to adjoining Counties in the Dublin MASP area and there is an enhanced need to retain and protect these lands for employment purposes. The Dublin MASP identifies Sandyford, Cherrywood and Carrickmines as strategic employment locations in the Dublin Metropolitan Area. In line with this designation the Council considers these areas to be priority locations for the delivery of office development of scale. Proposals for office development at Sandyford and Cherrywood will be assessed in accordance with the Sandyford Urban Framework Plan and the Cherrywood SDZ Planning Scheme as appropriate. The Council will support the continued development of office accommodation at Carrickmines to retain and enhance its role as a highly accessible and strategic employment location.

#### **6.4.2.14 Policy Objective E15: Securing Employment Growth**

It is a Policy Objective to ensure that employment zoned land facilitates its primary objective which is to provide for economic development and employment. The Council will apply a restrictive approach to residential development on employment zoned lands. The Core Strategy of this Plan concludes that there is a sufficient supply of zoned land for primarily residential purposes to meet allocated future population growth and to provide for the projected demand for housing over the Plan period. The Employment Strategy concludes there is a sufficient quantum of employment zoned lands available to facilitate continued economic development and employment growth in the County over the Plan period, however, it is highlighted that the extent of the employment landbank in DLR is quite low in comparison to

adjoining Counties in the Dublin MASP area and it is therefore necessary to protect such lands for employment uses. The Dublin MASP identifies Sandyford, Cherrywood and **Carrickmines** as strategic employment locations in the Dublin Metropolitan Area. These locations are similarly identified as strategic employment locations in the Employment Strategy of this Plan which seeks to align strategic employment locations with existing and identified residential growth areas through high frequency transport, minimising the divergence between the places people live and work, increasing the efficiency of land-use, reducing sprawl and minimising carbon footprint. The Council considers these areas to be priority locations to provide for economic development and employment. There is an enhanced need to retain and protect these lands for employment purposes and in this regard the Council will apply a restrictive approach to residential development at each of these strategic employment locations.

Proposals for residential development at Sandyford and Cherrywood will be assessed in accordance with the respective plans that relate to these areas, the Sandyford Urban Framework Plan and the Cherrywood SDZ Planning Scheme. In order to protect and enhance the role of Carrickmines as a highly accessible and strategic employment location, proposals for development will be managed with the aim of delivering High Intensity Employment uses and a cautionary approach will be taken towards any supplementary uses.

**Chapter 7, Towns Villages and Retail Development - Page 154:** “A number of LAPs identify neighbourhood centres, including one at Woodbrook - Shanganagh, Kiltieman and Old Conna that have yet to be delivered. In addition, a Specific Local Objective (SLO) no. 82 exists to provide for a Neighbourhood Centre in the north east quadrant of the Park Carrickmines (see CDP Map no. 9). This SLO provides for a centre with a net retail floorspace cap of 6000 sq. m as well a leisure facility to meet the existing and future needs of the growth areas of Carrickmines, Stepside Ballyogan and Kiltiernan-Glenamuck. Although the underlying zoning objective is for employment uses, the centre, in conjunction with other Neighbourhood Centres, will serve a local need in an area undergoing rapid growth and development. While



permission has recently been granted on the site for a project including retail and a cinema, it is considered appropriate to retain the SLO until the scheme is delivered."

## **Section 7.6 Assessment of Retail Development Proposals**

### **Section 7.6.1 Approach to Assessment of Development Proposals**

#### **Section 7.6.1.1 Policy Objective RET9: Assessment of Retail Proposals**

It is a Policy Objective of the Council to ensure that applications for new retail development shall accord with the retail policies of the Development Plan and are objectively assessed as set out in the Retail Planning Guidelines for Planning Authorities (2012).

#### **7.6.3.1 Policy Objective RET11: Active Street Frontages Non-Retail Uses**

It is a Policy Objective of the Council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres.

## **Chapter 8 Green Infrastructure and biodiversity**

## **Chapter 9 Open Space, Parks and Recreation**

## **Chapter 10 Environmental Infrastructure**

## **Chapter 11 Heritage and Conservation**

## **Chapter 12 Developemnt Management**

## **Chapter 13 Lan Use Zoning Objectives**

## **Chapter 14 Specific Local Objectives**

## **Appendix 5 Building Height Strategy**

**Refers to the following:**

- Section 1.4.2 Section 28 Guidelines
- SPPR 1
- SPPR 2
- SPPR 3
- SPPR 4

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2020
- Design Manual for Urban Roads and Streets (DMURS), 2019
- Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009; and the accompanying Urban Design Manual, 2009

## **Section 2. Understanding Building Height 2.1 Introduction**

### **2.1.1 Density and Height**

### **Section 2.2 Arguments for Higher Buildings or Tall Buildings.**

4.2.1 Ballyogan and Environs LAP 2019 – 2025 states:

There are currently buildings within the BELAP lands that could be considered tall by contemporary standards. The Elmfield and Castle Court apartment buildings at the west end of Ballyogan Road are 4 storeys in height, while the Carrickmines Green apartments at Old Glenamuck Road are up to 5 storeys in height. The tallest building in The Park Carrickmines is 6 storeys”. The plan takes account of the Guidelines and provides guidance and policy on building heights with respect to building height by neighbourhood and identifies specific locations for higher buildings and building height by scheme. Policy BELAP RES4 – Identifies Locations for Higher Buildings in Glencairn North, Kilgobbin South, Mimosa-Levmoss, Racecourse South, The Park Carrickmines, and Old Glenamuck. Policy BELAP RES5 – Building Height by Scheme provides performance base criteria for analysis of applications which proposes buildings in excess of 4 storeys including impacts on the immediate and surrounding environment, Impacts on adjoining structures, with a focus on overlooking and impact on residential amenity. It is considered that the Ballyogan and Environs Local Area Plan has regard to the Ministerial Guidelines, with respect to building height and fully accords with the SPPRs.

### **Policy Objective BHS 1 – Increased Height**

**Policy Objective BHS 2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan)**

**Policy Objective BHS 3 Building Height in Residual Suburban Areas**

## **RELEVANT POLICY IN THE BALLYOGAN AND ENVIRONS LOCAL AREA PLAN (LAP) 2019-2025**

The subject site at the Park Carrickmines is located within 'Carrickmines Quarter' 15 of the LAP. As per Map Figure 1.5 - Ballyogan and Environs Neighbourhoods and Quarters.

### **Section 3. Vision Statement**

The Vision Statement states:

Carrickmines Quarter - The Plan will support the delivery of a Neighbourhood Centre for the northeast Quadrant of The Park Carrickmines, while securing the overall primary use of these lands for Employment. Pedestrian and cyclist links through this Quarter and to adjacent areas will be improved. Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.

Further development of the central Greenway Spine (including addressing issues of permeability and pedestrian and cycle links to the Luas) to the planned Jamestown Park and beyond to the employment and retail areas at The Park, Carrickmines

A major focus of the Plan will be the need to provide new and improved linkages through the BELAP area, with a focus on sustainable modes of transport, and on linking residential areas to Neighbourhood Centres, community facilities, schools and the Luas Green Line.... community, and recreational facilities will be addressed, while building on the area's strengths such as heritage, sense of place, and access to good quality transport networks....

There is a focus on the significant remaining areas of zoned residential lands by way of Site Development Frameworks, along with a commitment to providing the supporting infrastructure in tandem with future development.

The BELAP area has a legacy of land uses such as utility, light industrial, landfill, retail warehousing, etc. In some instances it will be appropriate to support these

uses, which serve a function at a wider Regional level. In others, it will be appropriate to support a transition to other land uses that better support the area's role within the County and Region.

Carrickmines Quarter - The Plan will support the delivery of a Neighbourhood Centre for the northeast Quadrant of The Park Carrickmines, while securing the overall primary use of these lands for Employment. Pedestrian and cyclist links through this Quarter and to adjacent areas will be improved. Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.

#### **Section 4.3.1. Pedestrian and Cycle Policy**

Policy BELAP MOV1 - Pedestrian and Cycle Network Policy BELAP MOV12 - New Linkages

#### **Section 4.3.5. Proposed Linkages**

This section identifies Link No. 20 (new pedestrian/cycle link) which would connect the main 'crossroads' in The Park, Carrickmines to the new Glenamuck District Distributor Road, and onward to Glenamuck Road.

#### **Section 5.3.3. Residential Density - LAP Policy**

Policy BELAP RES 1 - Density General.....densities of population should be focused on services and not transport corridors alone.

#### **RES2 - Density by Neighbourhood.**

The target net density for the subject site (Neighbourhood 15) is 55 uph due to the Neighbourhood Centre and its location beside the Luas, but residential is only 'open for consideration' In E zone.

#### **Table 5.4 – Target for residential densities states:**

Neighbourhood 15 – The Park Carrickmines A Neighbourhood Centre adjacent to Ballyogan Road and M50 corridors has capacity for high buildings

#### **Section 5.3.4. Building Height**

Policy BELAP RES3 - Building Height by Neighbourhood: The building heights of residential schemes shall be informed by the considerations set out in Table 5.5, unless otherwise indicated by the detailed provisions of any Site Development Frameworks, where applicable, and subject to Policy BELAP RES4 below.

**Policy BELAP RES4 - Locations for Higher Buildings:** The locations identified as 'RES4' in Glencairn North, Kilgobbin South, Mimosa-Levmoss, Racecourse South, The Park Carrickmines, and Old Glenamuck Road are considered as suitable locations for higher buildings within the BELAP area (see Figure 11.1). It is anticipated that all but one of these locations would be suitable for residential buildings, consistent with the prevailing zoning objective. **The designation at The Park Carrickmines is subject to 'E' Zoning Objective, where residential is 'open for consideration' under the County Development Plan and as such, any proposed use mix would need to display compliance with this zoning objective.**

**Policy BELAP RES5 - Building Height by Scheme:** Any planning application for a scheme which proposes buildings in excess of 4 storeys shall be accompanied by an analysis of building height and positioning of buildings with reference to the following issues:

- Impacts on the immediate and surrounding environment - streetscape, historic character.
- Impacts on adjoining structures, with a focus on overlooking and impact on residential amenity.
- Relationship to open spaces and public realm.
- Views and vistas.
- Daylight and sunlight, including shadow analysis where appropriate.
- Wind and microclimate analysis
- Impacts on residential amenity of these buildings from noise sources such as motorway noise.

- Placemaking and the ability of taller buildings to assist with legibility and wayfinding within a Neighbourhood.

**Policy BELAP RES6 - Housing Mix:** Any planning application for new residential development within the BELAP area shall provide for a suitable mix of house types and sizes that meet the needs of a range of households and that both complement and enhance the existing residential mix. In locations where there is a dominance of any particular unit size or type, developments which contribute to a diversification of the housing stock shall be encouraged.

**Policy BELAP RES8 - Build to Rent:** To permit 'Build to Rent' schemes - as defined by Government Guidelines - in parts of the BELAP area with good access to transport and services, namely Glencalrn North, Kilgobbin East, Kilgobbin, South, The Park Carrickmines, Old Glenamuck Road, and Racecourse South (see Figure 1, subject to compliance with Policy BELAP RES6 above. In recognition of the BELAP's location at the edge of the built footprint of the Metropolitan Area, there will be a cautionary approach taken to 'Build to Rent' schemes that propose levels of car parking significantly below what might be expected from a 'traditional' apartment scheme.

- **Section 5.3.5. Housing Mix and Design**
- **Section 6. Retail and Employment**

**Policy BELAP RET5 – Residential Uses:** To encourage residential use above ground floor level within this Neighbourhood Centre to maintain and improve the area's vibrancy and vitality, providing that the Neighbourhood Centre's prime land use objectives are complemented and not undermined.

- **Section 6.2.3. County Development Plan - Retail Hierarchy and Retail Policies**
- **Section 6.3.3. The Park at Carrickmines**

The Park at Carrickmines is the most significant centre within the BELAP area and is distinct from Stepside Village and Leopardstown Valley in that it serves a much wider catchment with a significantly greater geographical trade draw. This is due in part to the profile of retail uses, and in particular its retail warehousing component, which, by its nature, has a significantly larger catchment.

The Retail Park as planned consists of four quadrants, split by internal north-south and east-west distributor roads. The retail element of the scheme comprises of units in the north-west and south-west quadrants, both of which are fully developed and grouped around both surface level and underground car parking. The southeast quadrant at The Park comprises primarily of offices but also contains a small element of retail including an off-license which comprises the only 'convenience' retail floorspace at The Park. **The north-east quadrant of the Park is primarily undeveloped and it is an objective of the Council to support and facilitate the development of a Neighbourhood Centre at this site. It is intended that the Neighbourhood Centre at these lands will serve the needs of both the existing and future populations in the local growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan-Glenamuck. In accordance with SLO 131 of the CDP, a net retail floorspace cap of 6,000sq.m will apply. Proposals for leisure facilities will provide for local need in accordance with its role as a Neighbourhood Centre.**

The Park at Carrickmines comprises one of the largest concentrations of retail warehousing in the County. In terms of any additional retail warehousing, Policy RET10 of the CDP provides that any new retail warehousing floorspace will be strictly controlled and limited. In advance of a new Retail Strategy for the Greater Dublin Area, the BELAP will take a cautionary approach and seek to limit additional new retail warehousing/retail park floorspace at both the Park, Carrickmines and adjoining 'E' zoned lands to the south, and the primary objective of these lands will be the encouragement of enterprise and creation of employment.

**Policy BELAP RET13 - Neighbourhood Centre:** To provide for the development of a Neighbourhood Centre in the north-east quadrant of the Park, Carrickmines, with a net retail floorspace cap of 6000 sq.m. and a local level leisure facility, which will

help meet the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan-Glenamuck.

**Policy BELAP RET14 - Retail Warehousing:** To take a cautionary approach and limit additional new retail warehousing/retail park floorspace at the Park Carrickmines in advance of a new Retail Strategy for the Greater Dublin Area.

#### **Policy BELAP RET15 - Retail Design Manual**

**Policy BELAP RET16 - Residential Uses:** To encourage residential use above ground floor level within this Neighbourhood Centre to maintain and improve the area's vibrancy and vitality, providing that the Neighbourhood Centre's prime land use objectives are complemented and not undermined.

- **Section 6.5. Existing Policy - Employment**

The CDP 2016 sets out the enterprise and employment strategy for the County. As shown in Figure 6.10, there is a significant quantum of **lands zoned 'E'** within the BELAP area, the Objective of which is "**To provide for economic development and employment**". In terms of lands zoned for employment use Policy E1 of the CDP provides that:

**Policy E1:** It is Council policy to ensure that sufficient serviced lands continue to be available for employment generation.

The Objective 'E' zoned lands at Carrickmines are identified as forming part of the "Enterprise and Employment" zoned lands that are available to facilitate continued economic development and employment growth in the County over the period of the CDP. In terms of office development, Policy E11 states:

**Policy E11:** It is Council policy to facilitate significant office development in commercial and employment centres. The appropriate locations for office



**development would generally be in Major Town Centres, District Centres, and Employment zoned areas.**

- **Section 6.6.1. The Park at Carrickmines (Employment)**

The Park at Carrickmines is the primary location within the BELAP area for large-scale high-quality office accommodation....Additional undeveloped lands zoned for employment use exist at both the southeast and northeast quadrants at The Park.

As set out in the CDP there is a limited quantum of undeveloped employment zoned lands available within the County. In this regard, 'E' zoned lands both at The Park and immediately proximate to the south, are considered suitable for significant additional office development to facilitate continued economic development and employment growth. Carrickmines is considered a key employment centre for high intensity employment and the BELAP will seek to enhance and strengthen The Park's function as an important employment node. It is an objective of the Council that future proposals at The Park will be strictly controlled with the aim of delivering high intensity employment uses, save for the delivery of a Neighbourhood Centre at the northeast quadrant, and a cautionary approach will be taken towards any supplementary uses. Proposals for residential development at the north-east quadrant at The Park will be considered in accordance with Policy E8 of the CDP.

Connectivity between The Park and surrounding areas such as Kiltlernan/Glenamuck and Ballyogan, particularly for sustainable modes of transport, will be key to facilitating further employment in this area.

**Policy BELAP EMP1 - Connectivity Policy**

**BELAP COM14 – Public Realm**

- **Section 11. Specific Local Objectives**

The following are the policies that have a 'spatial' or mapped component to the subject site identified on Figure 11.1: Specific Local Objectives of the BELAP:

**Policy BELAP RES8 - Build to Rent:** To permit 'Build to Rent' schemes - as defined by Government Guidelines - in parts of the BELAP area with good access to transport and services, namely Glencairn North, Kilgobbin East, Kilgobbin, South, **The Park Carrickmines**, Old Glenamuck Road, and Racecourse South (see Figure 11.1), subject to compliance with Policy BELAP RES6 above. In recognition of the BELAP's location at the edge of the built footprint of the Metropolitan Area, there will be a cautionary approach taken to 'Build to Rent' schemes that propose levels of car parking significantly below what might be expected from a 'traditional' apartment scheme.

**Policy BELAP COMB - The Park Carrickmines:** To encourage the provision of childcare facilities within The Park, Carrickmines, a major employment area within the BELAP area. (See Figure 11.1)

**Policy BELAP EMP2 - The Park Carrickmines:** To encourage and facilitate proposals for high Intensity employment at The Park, Carrickmines. Proposals for development at The Park will be managed with the aim of delivering high intensity employment uses, save for the delivery of a Neighbourhood Centre at the northeast quadrant, and a cautionary approach will be taken towards any supplementary uses. (See Figure 11.1)

**Policy BELAP COM10 - Healthcare:** To support and facilitate the provision of healthcare facilities including the provision of community-based primary care facilities in appropriate locations, and in particular within Neighbourhood Centres. The co-location of these services with other community facilities will be encouraged.

### 5.3. Natural Heritage Designations

- 5.3.1. Three streams flow through the BELAP lands; the Racecourse Stream, the Ballyogan Stream and the Golf Stream. They all converge near the eastern tip of the BELAP lands to become the Carrickmines River before joining with St. Bride's Stream to then form the Loughlinstown River which flows to the sea at Shanganagh.

- 5.3.2. There are no Special Areas of Conservation or Special Protection Areas within the BELAP lands, nor in the immediate vicinity. Strategic Environmental Assessment (SEA) has been prepared for the LAP, and for Appropriate Assessment (AA) under the Habitats Directive.
- 5.3.3. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 5.3.4. The closest European sites in this case is the Rockabill to Dalkey Island SAC which is located c6km from the appeal site.

#### 5.4. **EIA Screening**

- 5.4.1. An EIAR is required to accompany a planning application for development of a class set out in Schedule 5, Part 1 of the Planning & Development Regulations 2001 (as amended) which exceeds a limit, quantity or threshold set for that class of development. Sub- section 10(b) (iv) addresses 'Infrastructure Projects' and requires that the following class of project be subject to EIA:
  - 5.4.2. '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.'
  - 5.4.3. The proposed development involves the construction of a mixed-use development on the designated neighbourhood centre lands at The Park, Carrickmines on an application site area of approximately 10.4 hectares. Therefore, it exceeds the above-referenced threshold of 10 hectares for development within the built up area, and requires mandatory EIA.
  - 5.4.4. An EIAR Assessment is contained in the Assessment section of this report.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A First Party Appeal has been submitted by John Spain Associates on behalf of IPUT PLC. It is summarised as follows:

#### 6.1.1. Response to Refusal Reason 1:

- The proposed development delivers on the objectives and policies of the Development Plan and the Ballyogan and Environs LAP (BELAP) as they relate to the promotion of employment on the subject site.
- The proposal entails a higher percentage of commercial office use than the previously permitted scheme on site (under Reg. Ref.: D18A/0257 and ABP Ref.: 304396-19),
- Proposal would deliver a significantly greater level of employment overall on the lands.
- The proposed residential (including BTR) uses represent less than half of the floorspace within the proposed scheme, with the majority of the floorspace representing employment generating uses, in keeping with the underlying zoning of the subject site, and Policy E8 of the 2016-2022 Development Plan.
- Submit that the delivery of a vibrant NC including residential will in fact help achieve the councils long term objectives for employment on the E zoned lands.
- The inclusion of housing to serve workers on site and in the surrounding area is a key aspect of how the significant extent of proposed office use will be attractive to potential future occupiers.
- There are no 'stand alone' residential blocks proposed.
- The blocks referred to by the Planning Authority integrate commercial uses at ground floor, providing an integral part of the overall neighbourhood centre, while delivering residential use above ground floor.
- The proposed phasing and viability of the scheme is predicated on the need to create an attractive location for future occupiers, visitors, and residents

from the first phase via the inclusion of a significant element of neighbourhood centre facilities, the main park, and the link road (already progressed under the extant permission on site but shown on the application drawings for completeness and to illustrate how it ties in to the proposed development) within the first phase of development.

- The Economics report prepared by EY submitted with the application to DLR provides further rationale in respect of the proposed development phasing.
- The residential uses proposed on site cover just 17% of the overall application site area, and represent less than 9% of the overall E-zoned landholding at The Park Carrickmines.
- The SLO promotes the delivery of a mixed use neighbourhood centre on site, and the specific policies of the BELAP recognise the site as an appropriate location for residential development, Build to Rent development, and higher buildings.
- The proposed residential uses underpin, complement, and support the vibrancy, viability, and attractiveness of the proposed development as a mixed use neighbourhood centre which delivers strongly on objectives for employment creation at this location.
- The proposed development represents an uplift of c. 76% on the extant permission in terms of commercial office floorspace, when compared to the already permitted development on the lands.
- Includes c. 23,700 sq.m of other employment generating uses, including retail, leisure, café / restaurant and retail warehouse floorspace. This employment generating floor area is offset by c. 36,485 sq.m of residential (including BTR) floorspace, representing significantly less than half of the overall floor area of the scheme. The total employment generating floorspace to be provided on site comprises significantly more than 50% of the overall floorspace proposed.
- The 17,647 sq.m of office development under the extant permission on site under Reg. Ref: D18A/0257 and ABP Ref.: 304396-19 represented 21% of the overall permitted floorspace (excluding basement) of 83,996 sq.m).

- In the current scheme, the proposed 31,082 sq.m of commercial office floorspace. This is 34% of the floor area of the scheme excluding basement (which is 91,288 sq.m).
- The current proposals provide for a higher percentage of commercial office use, and a much higher intensity of employment use, than the previously permitted development on site, which was supported by the Planning Authority and considered to comply with the zoning objectives and employment policies of the Development Plan.
- The report prepared by Ernst and Young (EY) which accompanied the application estimates that the proposed development will provide for c. 4,000 employees once operational. This significant employee number significantly exceeds the predicted residential population of the proposed development (which has an upward estimate of c. 1,424 persons).
- The proposed development has been formulated based on the principle of providing an integrated neighbourhood centre with spaces to work, shop, relax, and live, all located proximately to each-other within a well designed setting adjacent to public transport services.
- The proposed development delivers on the requirement for a neighbourhood centre at this location, while also achieving a high intensity of employment.
- The proposed development complies with each and every one of the policies pertaining to the subject site, including those relating to the delivery of high intensity employment.
- The proposed development complies with the SLO requiring the delivery of a neighbourhood centre on the lands, and the policies of the BELAP as it relates to the delivery of residential and BTR development, particularly above commercial ground floor uses, while maintaining strong delivery of employment generating uses on the lands in accordance with the underlying zoning objective.
- The proposed development also accords with and supports the delivery of several key objectives of the NPF.

- The development accords with the Housing for All plan, which recognises the need for over 300,000 new homes by 2030.
- Accords with the provisions of the 2018 Urban Development and Building Height Guidelines.

#### 6.1.2. **Response to Refusal Reason 2:**

- The Planning Authority consider the subject site represents a 'transitional zone'.
- The Planner's Report notes that Block J (the stand alone six storey office building in the north-west of the site) achieves an appropriate transition in scale.
- None of the buildings within the proposed development abut any existing residential areas. Block J is the closest built element to any area of existing residential use or residential zoning, and the Planning Authority have specifically stated that they consider its scale appropriate.
- No detailed analysis or clear rationale for this statement is provided that Blocks A, B, C, and D represent too abrupt a transition in scale between the E zoned lands subject to the SLO to promote the development of a Neighbourhood Centre, and the F zoned open space lands on which a new public park is proposed.
- The aim of the wording in Section 8.3.1 of the Plan clearly aims to avoid negatively impacting the amenity of residential areas at transitions between zoning.
- The nature of the park, by virtue of its location, scale, and design does not call for development to step down towards it. On the contrary, best practice in terms of urban and architectural design, the nature of this transition calls for a strong urban edge, while also providing for passive surveillance of the park, and creating an attractive vista ad appropriate design response.
- HJL Architects report indicates the clear rationale for the proposal already provided as part of the pre-application consultations with the Planning

Authority and subsequently within the Urban Design Statement submitted with the application.

- HJL Architects report details the process and design rationale behind the scale and height of each of the blocks facing the Park, and how they provide a visual sweep of built form terminated and bookended by Block A, the tallest of the buildings at 11 storeys.
- The buildings do not form an impenetrable wall to the F zoned park lands, but rather are broken down and modulated, with pedestrian routes running between the park and the main shopping street and new neighbourhood square, allowing for clear visual linkages, intuitive wayfinding, and a strong sense of place.
- The subject site has previously been considered an appropriate location for higher buildings, with the planning history of the subject site reflecting this.
- Under Reg. Ref.: D07A/0936 several blocks with heights ranging up to 42 metres were permitted, representing greater overall height than Block A which is the highest building in the current application.
- Another previously permitted development on site under Reg. Ref.: D03A/1239 and ABP Ref.: PL06D.208365 also provided for a sixteen storey over basement tower, with an overall height of over 70 metres. These permissions were subject to grants of permission from the Planning Authority and were considered prior to the publication of the BELAP which now specifically promotes higher buildings on this site, and the broader recent national policy context including the NPF and the Urban Development and Building Height Guidelines.
- The proposed development is also lower in scale than the Board's more recent grant of permission for a Strategic Housing Development which included a landmark building of 22 storeys at Golf Lane to the east of the current application site under ABP Ref.: 309026 – 20.
- The proposed development in terms of use mix has displayed compliance with the E zoning objective, and the subject site is clearly identified as a site for higher buildings.



- Refer the Board to the original Planning Report, Urban Design Statement, LVIA Chapter of the EIAR, and Architectural Design Statement submitted with the application, which clearly set out that in fact the development would integrate effectively into its surroundings, and provide an evidence base for this assertion which is entirely lacking in the Planning Authority's assessment. There is no rationale to substantiate the assertion that the development is contrary to Policy UD1.
- The Planner's Report itself states that the Planning Authority "considers that the proposed layout, architectural language and design, the proposed public realm and landscaping is of very high quality and has the potential to contribute to an attractive and vibrant neighbourhood centre...".
- The development effectively links with its surroundings, and includes the provision of new pedestrian and cycle links to benefit the wider area.
- Located adjacent to public transport, and provides for pleasant, safe and convenient routes, with the provision of a good level of passive surveillance to the proposed park a key consideration in this regard.
- Creation of a new '10 minute neighbourhood'.
- Seeks to promote cycling through the provision of cycling facilities.
- The proposal will benefit from strong connectivity and permeability.
- The layout of the proposed scheme has been devised to provide a legible, permeable layout with a range of building heights which, together with a varied use of materials and finishes, engender a definitive sense of place in a new residential community.
- The overall architectural style is contemporary and reflects the modern requirements to balance a high standard of design with the need to satisfy energy reducing objectives.
- Each dwelling is provided with an area of useable private open space which meets or exceeds the requirements of the 2020 Apartment standards.
- All of the dwellings meet or exceed the Section 28 Guidelines unit size requirements.

- The parking within the development is primarily located within the basement levels, with a small element (59 spaces) provided at surface level.
- The proposed development delivers a high level of bicycle parking, with the revised basement drawings submitted as part of the Appeal providing for a reduction in car parking to provide for 0.6 spaces per residential unit, and aligning the commercial parking with the decreased standards of the new County Development Plan.
- Revised drawings also provide for a significant increase in cycle parking, to bring the proposed residential cycle parking into line with the 2020 Apartment Guidelines standard.
- The proposed use mix is considered to be in accordance with the E zoning objective, in addition to the other relevant site specific objectives pertaining to the site, including the SLO requiring the delivery of a neighbourhood centre and the policies of the BELAP as it relates to the delivery of residential and BTR development, particularly above commercial ground floor uses, while maintaining strong delivery of employment generating uses on the lands in accordance with the underlying zoning objective.
- The higher buildings in the proposed development are not solely residential buildings, but rather represent mixed use buildings, forming an integral part of the overall neighbourhood centre by providing much of the ground floor commercial / retail type uses defining the new Main Street through the neighbourhood centre itself.
- Submit that the proposed development is clearly in accordance with Policy BELAP RES4, and that the subject site is suited to the delivery of buildings of the height proposed.

#### **6.1.3. Response to other points raised by PA and Observers.**

- The proposed total parking quantum has been reduced, to provide 0.6 spaces per residential (including BTR) unit within the scheme, and to reduce the commercial car parking to align with the new reduced standards in the new Dun Laoghaire Rathdown County Development Plan 2022-2028.

- The drawings included at Appendix 4 illustrate reduction of the total car parking from 1,184 as originally proposed within the current application, to 1,017, a reduction of 167 no. spaces.
- The updated chapter responds to the points raised by the Dun Laoghaire Rathdown County Council Biodiversity Officer in their report on the application. Appendix 12 also includes one consequent update to Chapter 15 of the EIAR (Summary of Mitigation and Monitoring Measures), in order to incorporate an additional mitigation measure which has been included in the update of Chapter 5.
- In light of these updates to the EIAR chapters submitted herewith, it would be appropriate for the Board to include in any grant of permission for the proposed development a statement in accordance with the provisions of section 34(10)(c)(ii) of the Planning and Development Act 2000, as amended, to confirm that the Board “is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision”. Although we do not believe that it is required, it would be open to the Board to put these updates out for public consultation if deemed necessary.
- The subject site retains the equivalent primary zoning objectives under the new Development Plan as under the previous 2016-2022 Plan.
- The proposed development fully complies with the altered SLO wording in the Draft CDP. The phasing of the proposed development provides for the delivery of the proposed park, greenways within the lands, and the Ballyogan Link Road within the first phase of the development, and these elements will be available for use prior to occupation. The link road has been constructed pursuant to the extant permission on the subject site.
- Under the provisions of the new Plan, ‘Residential – Build to Rent’ development has been defined as a distinct use class for the first time (no such distinct use class existed in the previous or prior Plans). This use class has not been listed as either a ‘Permitted in Principle’ or ‘Open for Consideration’ use under the E zoning. With regard to uses which are not considered Permitted in Principle or Open for Consideration, the Plan

indicates that these uses will not be permitted. However, the restrictions under section 37(2)(b) of the Planning and Development Act 2000 as amended, on the Board granting permission for a proposed development which materially contravenes the Development Plan only arise where "a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan". This did not arise however in this case.

- Were the Board to consider the inclusion of the Build to Rent element of the proposed development as constituting a material contravention, it is submitted that the Board should nonetheless proceed to grant permission for the proposed development pursuant to the provisions of section 37(2)(a) of the Act.
- It is submitted that the proposed development is of strategic and national importance and therefore satisfies the first of the criteria under section 37(2)(b).
- In this regard it is considered that the proposed development should be granted having regard to relevant Guidelines under Section 28 of the Act and Government Policy including Housing for All.
- The Apartment Guidelines highlight that a key aspect of Build to Rent (BTR) is its potential to accelerate the delivery of new housing at a significantly greater scale than at present.
- The Core Strategy of the new Development Plan, notes the requirement for 18,515 units as a target residential yield for the county over the duration of the new Plan.
- The Ballyogan and Environs Area is targeted for 4,147 units over the Plan period, representing a significant portion of the total.
- The proposed development will deliver an appropriately scaled level of residential, including BTR development.
- The proposed development will contribute to the County meeting its housing target over the Development Plan period.

- The proposed development represents a c. 80% uplift on high intensity office development as part of the overall scheme, when compared to the previously permitted scheme on site under Reg. Ref: D18A/0257 and ABP Ref.: 304396-19. Therefore, it is considered that the proposed development accords with Policy Objective EMP 14 in that it ensures the primacy of employment use on these E zone lands, while delivering a level of residential development which is considered appropriate and will help sustain the employment creation on the site.
- The Specific Local Objective pertaining to the Quadrant 3 lands, expressly calls for a mixed use neighbourhood centre.
- The net residential area within the current application site represents less than 17% of the overall application site area, with this area representing less than 9% of the overall c. 19 hectare area of E zoned lands at this location at The Park Carrickmines, and just c. 4.4% of the overall wider E zoned lands both within and adjoining The Park.
- The proposed development, entailing over 31,000 sq.m of office floorspace, and 23,700 sq.m of other employment generating uses, represents the highest intensity of employment generation within the locality to date, and a markedly greater level of employment creation when compared to the previously permitted / extant permission on site under Reg. Ref: D18A/0257 and ABP Ref: 304396-19.
- The unit mix within the 'non-BRT' / standard apartment element of the proposed development comprises 46% one bedroom, 45% two bedroom, and 8% three bedroom units.
- The BTR element of the development comprises 39% 1 bedroom units, 55% 2 bedroom units and 5% 3 bedroom units.
- The proposed development may be considered to represent a material contravention of the new County Development Plan as it relates to unit mix. However, the restrictions under section 37(2)(b) of the Planning and Development Act, as amended, on the Board granting permission for a proposed development which materially contravenes the Development Plan

only arise where "a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan".

- Were the Board to consider the proposed unit mix within the development as constituting a material contravention, it is submitted that the Board should nonetheless proceed to grant permission for the proposed development pursuant to the provisions of section 37(2)(a) of the Act and by reference to section 37(2)(b) of the 2000 Act.
- Over 50 % of apartments proposed are dual aspect.
- The Developer has moved forward with the delivery of the Ballyogan Link Road under permission Reg. Ref: D18A/0257 and ABP Ref.: 304396-19, this is a key piece of infrastructure, it is submitted that the same condition wording re section 48 financial contribution, previously applied under condition 23 of ABP Ref.: 304396-19 the Boards Order should be utilised by the Board in any grant of permission for the current development proposals
- The Appeal is accompanied with:
  - Appendix 1 – DLRCC Notification of Decision to Refuse Permission
  - Appendix 2 – Urban Design Appeal Statement prepared by Urban Initiatives
  - Appendix 3 – Statement on height and height transition prepared by HJL Architects
  - Appendix 4 – Drawings and drawing schedule prepared by Henry J Lyons Architects
  - Appendix 5 – Technical note, drawing issue sheet and drawings prepared by OCSC Consulting Engineers (Civil)
  - Appendix 6 – Updated Public Lighting Report and Outdoor Lighting Report prepared by OCSC Consulting Engineers (Electrical).
  - Appendix 7 – Appeal statement on flood risk and appended drawings prepared by RPS Consulting Engineers
  - Appendix 8 – Landscape Architecture Note, drawings and drawing schedule prepared by Townshend Landscape Architects

- Appendix 9 - Biodiversity Technical Note, Updated Biodiversity EIAR Chapter, and Updated AA Screening Report prepared by EnviroGuide
- Appendix 10 - Landscape and Visual Impact Assessment Note prepared by Chris Kennett
- Appendix 11 – Appeal note on Traffic and Transport prepared by Atkins Consulting Engineers
- Appendix 12 – Update of EIAR Chapter 15 (Summary of EIAR Mitigation and Monitoring Measures) to reflect the updated Biodiversity Chapter

## 6.2. Applicant Response

- Letter on file dated 30<sup>th</sup> August 2022, from the applicant’s agent, requesting priority be given to this case, having regard to the nature of the development.

## 6.3. Planning Authority Response

- Response received, dated 21<sup>st</sup> April 2022. It is noted that since the decision was issued by the planning authority, the new Dun Laoghaire – Rathdown County Development Plan 2022 to 2028 has come into effect. However, no changes have been made to the policies and guidance under which the proposed development was previously assessed (under Dun Laoghaire – Rathdown County Development Plan 2016 - 2022) in the new Dun Laoghaire – Rathdown County Development Plan 2022 to 2028
- The PA’s response is accompanied with a revised Surface Water Drainage Report. The report notes that issues raised have been comprehensively addressed in the first party appeal documentation and the information submitted generally satisfies the requirements of the Drainage Planning Division subject to condition.
- It is also accompanied with a revised Biodiversity Report. The report notes and has regard to the appeal documentation relevant to biodiversity – incl the revised EIAR , the revised AA Screening report along with relevant details in the various other revised documents – in respect of the proposed

development. It recommends that should permission be forthcoming from the Board that 13 detailed conditions be attached.

- The response notes that the public lighting report dated 09/04/2022 ‘no additional information was provided for the lighting design and if this development is being moved forward then the information previously asked for will be required before acceptance by public lighting is possible.’
- The original EHO Report, Department of Housing report and IW report were resubmitted – no new issues raised, proposal acceptable subject to condition.

#### **6.4. Observations**

- None Received.

#### **6.5. Further Responses**

- Non-Relevant.

### **7.0 Assessment**

#### **7.1. Introduction:**

A 10 year permission is sought for a mixed use retail / commercial development, with a Gross Floor Area (GFA) of 91,288 sq.m, excluding the basement car parks, in eleven blocks varying in height from one to eleven storeys. It comprises of a neighbourhood centre, office space, retail warehouse space, retail floorspace, retail services spaces, cinema and other leisure space, 440 residential units, childcare facility, car showroom, medical centre, linear park and associated works on a site of 10.4 ha at lands known as Quadrant 3, The Park, Carrickmines, Dublin 18.

- 7.1.1. As noted above, permission was granted in September 2019 under ref. 304396 – 19 / D18A/0257 for a mixed-use neighbourhood centre. A full description of what was proposed under the preceding application is set out above in section 3.0 of this report. The permitted development included the provision of 130 BTS apartments, 5,588 sq. m of net retail floorspace, in addition to over 11,000 sq. m of retail warehouse floorspace. The subject proposed development represents a slight reduction on the level of retail floorspace provision, and a reduction on the level of



retail warehouse floorspace. The proposed development provides for 440 apartments of which 308 are BTR, an uplift in the level of office floorspace provided from 17,647 sq. m to 31,082 sq. m. The scheme retains a 7 screen cinema of similar scale to that which was previously granted permission by the Board in the extant permission, and a leisure use has also been incorporated into the current proposals in line with the previous proposals. A comparison of the proposed and permitted development is set out under section 2.0 above.

7.1.2. Reg. Ref. 304396 – 19 / D18A/0257 was granted planning permission by the PA and ABP, the subject proposed development was refused planning permission by the PA for two number reasons, set out in full in section 3.0 of this report and summarised hereunder:

- The layout and phasing of the scheme, comprising stand-alone residential blocks, further emphasises the overtly residential prominence of this scheme, undermining the vision for the Neighbourhood Quarter 15, Carrickmines Quarter set out in the BELAP which is to support the delivery of a Neighbourhood Centre for the northeast quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for employment.
- The proposed development, by reason of its scale, height and massing, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposal is considered to be contrary to the Section 8.3.2 (Transitional Zonal Areas), contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the CDP 2016 – 2022 and contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). It is also considered to be contrary to the Ballyogan and Environs Local Area Plan 2019 – 2025, Policy BELAP RES4, Locations for Higher Buildings, as the proposed use mix, within the overall scheme, in this case, is not considered to be in accordance with the ‘E’ Zoning Objective of the lands.

7.1.3. In addition to the reasons for refusal, the PA having considered the EIAR and the proposed mitigation and monitoring measures are lacking. It is considered that further information would be required with respect to a number of chapters within the

EIAR in order to allow for a full assessment of the application to be undertaken.

These chapters include:

- Biodiversity
- Water
- Landscape and Visual Impact
- Summary of EIAR mitigation and monitoring measures

7.1.4. The first party appeal seeks to address the reasons for refusal and also the issues raised in the internal and prescribed bodies reports submitted to the PA. A full list of the supplementary information and reports, submitted in support of the first party appeal, is set out above at the end of section 6.1.3 of this report and includes notably:

- An updated Public Lighting Report and Outdoor Lighting Report.
- An appeal statement on flood risk and appended drawings
- Landscape Architecture Note and Drawings
- Biodiversity Technical Note, Updated Biodiversity EIAR Chapter, and Updated AA Screening Report
- Landscape and Visual Impact Assessment Note
- Appeal Note on Traffic and Transport
- Update of EIAR Chapter 15 (Summary of EIAR Mitigation and Monitoring Measures) to reflect the updated Biodiversity Chapter.

7.1.5. I highlight that no objections, observations or submissions (other than from Prescribed Bodies) have been submitted to the proposed development. It is my intention to assess the application with respect to the reasons for refusal, in the first instance, and, secondly, having regard to the updated technical information submitted with the first party appeal.

7.2. The proposed development is assessed under the following headings:

- **Principle, Zoning & Use**
- **Retail component**
- **Office Use**
- **Transitional Zone and Building Height**
- **Residential Accommodation and Mix**
- **Transportation**
- **Drainage & Flood Risk**
- **Parks and Landscaping**
- **Other Issues**
  - **Development Contribution**
  - **Public Lighting**
- **AA**
- **EIAR**

### 7.3. **Principle, Zoning & Use**

7.3.1. The proposal was assessed by the PA under the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. However, the operative County Development Plan is now the Dun Laoghaire Rathdown County Development Plan 2022 – 2028.

7.3.2. The subject site retains the same primary zoning objectives under the new CDP. The majority of the subject site is zoned land use objective 'E' – "To provide for economic development and employment". A portion is zoned 'F' – "To preserve and provide for open space with ancillary active recreational amenities. And a smaller parcel is zoned 'A' – "To provide for residential development and improve residential amenity while protecting the existing residential amenities," (Map 9 of the new CDP refers)

7.3.3. Blocks A - J are all located on lands zoned 'E' which seeks 'To provide for economic development and employment'.

7.3.4. There is a specific local objective (SLO) assigned to the site for the provision of a Neighbourhood Centre. SLO 131 of the 2016 – 2022 CDP, pertaining to the subject site has been re-numbered, now SLO 82, under the New Plan, with an alteration to the SLO wording as follows:

"To provide for the development of a Neighbourhood Centre in the north-east 'quadrant' of the Park, Carrickmines, with a net retail floorspace cap of 6000 sq. m,

(approximately), and a leisure facility, to assist the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan, Glenamuck, while also protecting employment use at this location. Any future development of the northeast quadrant should ensure that the Ballyogan link road, parkland area and greenway (as pertaining to the lands) are completed and available for use by the general public before occupation of development”.

- 7.3.5. The Ballyogan and Environs Local Area Plan 2019 – 2025 is also of relevance. The LAP sets out policies in respect of the Park Carrickmines including references to SLO 131 of the County Development Plan. The overarching vision statement is supplemented by brief vision statements pertaining to each of the identified quarters within the LAP area (Figure 1.5 Quarters & Neighbourhoods refers). The following is stated in relation to the Carrickmines Quarter:

*“The Plan will support the delivery of a Neighbourhood Centre for the north-east Quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for Employment. Pedestrian and cyclist links through this Quarter and to adjacent areas will be improved. Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.”*

- 7.3.6. Of some significance to this proposal is the fact that under the provisions of the new Dun Laoghaire Plan, ‘Residential – Build to Rent’ development has been defined as a distinct use class for the first time (no such distinct use class existed in the previous or prior Plans). This use class has not been listed as either a ‘Permitted in Principle’ or ‘Open for Consideration’ use under the E zoning. With regard to uses which are not considered Permitted in Principle or Open for Consideration, the Plan indicates that these uses will not be permitted. Section 13.1.5 Not Permitted / Other Uses clearly states:

*“Uses which are not indicated as ‘Permitted in Principle’ or ‘Open for Consideration’ will not be permitted...”*

- 7.3.7. I note that the amendment of the Section 28 Sustainable Urban Housing - Design Standards for New Apartments Guidelines (Dec 2022) which removes the distinct status of Build to Rent (BTR) developments in the planning system. This amendment will mean that there will no longer be a difference in standards for future apartment developments, regardless of the development type. All apartment developments

shall now adhere to the same standards. The amendment takes effect, as of and from, 22nd December 2022. The amendments do not apply to schemes in the system prior to 21/12/22 as is applicable in the subject case.

7.3.8. “Advertisements and Advertising Structures, Carpark, Cash and Carry/Wholesale Outlet, Craft Centre/Craft Shop, Childcare Service, Enterprise Centre, Heavy Vehicle Park, Hospital, Household Fuel Depot, Industry-General, Industry-Light, Industry-Special, Motor Sales Outlet, Office Based Industry, Offices, Open Space, Public Services, Refuse Transfer Station, Rural Industry- Food, Science and Technology Based Industry, Scrap Yard, Service Garage, Tea Room/Café, Transport Depot, Travellers Accommodation, Warehousing”, are all permitted in principle for this zoning.

7.3.9. “Abattoir, Aparthotel, Assisted Living Accommodation, Boarding Kennels, Community Facility, Cultural Use, Doctor/ Dentist etc., Education, Funeral Home, Garden Centre/Plant Nursery, Health Centre / Healthcare Facility, Home Based Economic Activities, Hotel/ Motel, Industry-Extractive, Leisure Facility<sup>a</sup>, Nightclub, Off-License, Place of Public Worship, Public House, Refuse Landfill/Tip, **Residential<sup>b</sup>**, Retail Warehouse, Restaurant, Rural Industry-Cottage, Rural Industry-Cottage, Service Station, Shop Specialist, Shop-Neighbourhood, Shop-District, Sports Facility, Veterinary Surgery”, are all open for consideration.

- “**a:** Only applies to ‘E’ zoned lands subject to a Specific Local Objective for a ‘Neighbourhood Centre’”.
- “**b:** In accordance with Policy Objective E15: Securing Employment Growth”.

7.3.10. It is notable that ‘Residential – Build to Rent’ is ‘Open for Consideration’ on Zoning Objective ‘NC’: ‘To provide for and / or improve mixed-use neighbourhood centre facilities.’ However, the subject site is zoned ‘E’ with an SLO to provide for the development of a neighbourhood centre. Given that ‘Residential – Build to Rent’ is “not permitted in principle or open for consideration” on E zoned lands the proposal constitutes a material contravention of the 2022 – 2028 Dun Laoghaire Rathdown County Development Plan.

7.3.11. The proposed development includes both BTS and BTR residential units. The Section 28 Sustainable Urban Housing - Design Standards for New Apartments

Guidelines (Dec 2018) are of relevance to the subject development, it sets out standards for BTS apartments - SPPR1 (unit mix), SPPR 3 (floor areas), SPPR 4 (aspect /orientation), SPPR 5 (floor to ceiling height), SPPR6 (apartments to stair / lift core ratios) however, SPPR 8 sets out that there will be no unit mix requirement for BTR development. This being said the unit mix for both BTS and BTR units is consistent with the guidance set down in SPPR 1, 3, 4 and 5 from the information submitted. The percentage of studios (of which none are proposed) and 1 beds does not exceed 50%, there is no requirement for 3 bed units, however, 8% and 6% are proposed, respectively. The proposed apartment size, units per stair core, floor to ceiling height, storage areas, aspect / orientation (the provision of 50% dual and triple aspect for both BTS and BTS exceeds the 50% standard for intermediate locations and 33 % standard for accessible locations, no single aspect north facing apartments proposed) and private amenity spaces for both BTS units and BTR units accord with the Guidelines. The quantum of communal amenity space, car parking, cycle parking, provision of a creche and children's play area complies with the standards set out in the Guidelines.

- 7.3.12. Section 5.2 of the 2022 Apartment Guidelines defines 'Build-to-Rent' (or BTR) as: 'Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.' This is also the definition used by Dun Laoghaire Rathdown in the new use class 'Residential – Build to Rent', albeit it refers to Section 5.2 of the 2020 Apartment Guidelines.
- 7.3.13. From my assessment of the proposal, it does not appear that the applicant is availing of or relying on any of the flexible design standards / any derogation / exemptions applicable under the 2018 Apartment Guidelines and therefore I am perplexed at the application for 308 BTR units on now 'E' zoned lands when the new County Development Plan excludes BTR from this zoning objective.
- 7.3.14. I note the applicants sets out how the proposed scheme complies with the BTR policies in terms of SPPR 7 and SPPR 8, in that it is advertised as including BTR units, it will comply with a management structure for BTR developments and will remain in operation for a minimum of 15 years, as addressed in the BTR Management Plan and Draft Legal Covenant which is submitted as part of the

application. The proposal also includes a range of communal and recreational amenities. The ancillary resident amenities have a total floor area of 1,278 sq. m. A Management Company will control the resident facilities and the communal amenity spaces. In terms of SPPR8 it is notable that the application does not rely on any derogation in terms of private amenity space, storage, or communal amenity space in respect of the proposed BTR units.

- 7.3.15. This application has not been advertised as a material contravention and the reasons for refusal do not consider it a material contravention, cognisance being to the Plan change and the introduction of the new distinct use class, 'Residential – BTR', it would now, in my opinion, give rise to a material contravention of the statutory Plan which came into effect on the 21<sup>st</sup> April 2022 and therefore should be refused.
- 7.3.16. While it is open to the Board to grant permission pursuant to the provisions of section 37 (2)(a) of the Planning and Development Act 2000, as amended. I note the applicant's argument that the proposed development is of strategic and national importance and therefore satisfies the first of the criteria under section 37(2)(b). I am not open to a material contravention of the Plan in this instance. The DLRDCDP 2022 – 2028 is a new Development Plan which was subject to analysis by the OPR and no issues were raised with respect to use classes included and exclusion of BTR – Residential from the E zone. I see no reason to materially contravene such a new Development Plan should the Board disagree it is open to them to do so and grant permission pursuant to the provisions of 37(2)(b), relevant Guidelines under Section 28 of the Act and Government Policy Housing for all.
- 7.3.17. With respect to the crux of the first reason for refusal, that the 'proposed use mix is considered to be contrary to the E zoning objective'. Refusal reason number 1 of D21A/1145 considers that the proposed development would be contrary to Policy BELAP EMP2 of the Ballyogan and Environs Local Area Plan 2019-2025, undermine Policy E1 of the County Development Plan, would be contrary to Policy E8 of the County Development Plan, and contrary to the zoning objective of the area, which is 'E' to provide for economic development and employment, and would therefore, be contrary to the proper planning and sustainable development of the area.

7.3.18. Policy Objective E15: Securing Employment Growth of the new CDP 2022 – 2028 states:

“It is a Policy Objective to ensure that employment zoned land facilitates its primary objective which is to provide for economic development and employment. The Council will apply a restrictive approach to residential development on employment zoned lands”.

7.3.19. Section 6.4.2.14 of the CDP 2022 – 2028 goes on to state:

“... In order to protect and enhance the role of Carrickmines as a highly accessible and strategic employment location, proposals for development will be managed with the aim of delivering High Intensity Employment uses and a cautionary approach will be taken towards any supplementary uses”.

7.3.20. The first party submit that the development now proposed will deliver an alternate to the permitted scheme, by responding to changing economic conditions and planning requirements. The revised scheme provides for an increase in the area of commercial office space provided on site with a similar overall level of retail and retail service floorspace. The level of cafe / restaurant floorspace is reduced in the current scheme, while a reduction in the retail warehouse floorspace previously permitted is proposed. The proposed development also includes c. 23,700sqm of other employment generating uses, including retail, leisure, cafe/restaurant and retail warehouse. The proposed development also includes a car showroom, a cinema, medical centre and gym.

7.3.21. It is my opinion that the proposed development complies with the altered SLO wording in the new CDP. In particular SLO 82 which states:“...Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.” It would deliver a neighbourhood centre of residential and commercial ground floor uses, while maintaining strong delivery of employment generating uses on the lands in accordance with the underlying zoning objective. The residential use proposed on site covers just 17% of the overall site area and represents less than 9% of the overall E zoned landholding at the Park Carrickmines. I would accept the argument that the proposed residential uses underpin, complement and support the vibrancy, viability and attractiveness of the proposed development as a mixed use neighbourhood centre which delivers on



objectives for employment creation at this location. Regard is had to Table 3 of this report set out in section 2.0 above, the residential % of the overall scheme subject to the current application is 40%, office 34%, retail warehouse 4.3 %, retail and supermarket 9% as opposed to the permitted scheme (ABP304396 / D18A/0257) which included 15% residential, 6% office, 13% retail warehousing, 9.5% retail and supermarket. The phasing of the proposed development provides for the delivery of the proposed park, greenways within the lands, and the Ballyogan Link Road within the first phase of the development, and these elements would be available for use prior to occupation. The landscaped linear park is proposed in an area of the site which is zoned for open space purposes and is therefore considered acceptable. The link road has been constructed pursuant to the extant permission on the subject site.

- 7.3.22. Having regard to the planning history of the subject site, notably Reg. Ref. D18A/0257 (ABP Ref. 304396-19), I would be generally satisfied with the proposed uses, given the Specific Local Objective (SLO 82) on the site. The applicant submits that contrary to the PA's assessment that the proposal does not contain stand-alone residential blocks. This would appear from my assessment to hold true. The new statutory Plan, however, precludes BTR- Residential within E zoned lands and therefore, I consider this a reason for refusal in this instance. The number of BTR units proposed within the scheme is significant and the principle on 'E' zoned lands is not considered acceptable.

#### **7.4. Retail component and Retail Impact Assessment Retail Warehousing**

- 7.4.1. The proposal has been framed within the context of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and in particular Specific Objective '131'. However, the CDP has changed and the SLO pertaining to the subject site has been re-numbered, now SLO '82', under the New Plan, with an altered wording as follows:

"To provide for the development of a Neighbourhood Centre in the north-east 'quadrant' of the Park, Carrickmines, with a net retail floorspace cap of 6000 sq. m, (approximately), and a leisure facility, to assist the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and

Kiltiernan, Glenamuck, while also protecting employment use at this location. Any future development of the northeast quadrant should ensure that the Ballyogan link road, parkland area and greenway (as pertaining to the lands) are completed and available for use by the general public before occupation of development”.

- 7.4.2. As set out above in Section 5.0 Policy Context of this report: It is a Policy Objective, E15, ‘Securing Employment Growth’, of the new CDP 2022 – 2028, “to ensure that employment zoned land facilitates its primary objective which is to provide for economic development and employment. The Council will apply a restrictive approach to residential development on employment zoned lands...”  
“In order to protect and enhance the role of Carrickmines as a highly accessible and strategic employment location, proposals for development will be managed with the aim of delivering High Intensity Employment uses and a cautionary approach will be taken towards any supplementary uses”.
- 7.4.3. It is a Policy Objective of the Council, RET9: Assessment of Retail Proposals, to ensure that applications for new retail development shall accord with the retail policies of the Development Plan (2022 – 2028) and are objectively assessed as set out in the Retail Planning Guidelines for Planning Authorities (2012).
- 7.4.4. It is also a Policy Objective, Policy Objective RET11: Active Street Frontages Non-Retail Uses, of the Council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres.
- 7.4.5. Regard is had to the Retail Impact Statement which accompanies the application. Section 3.0 of the RIA sets out proposed retail floorspace. Section 2.0 of my report sets out key statistics for the site and % retail floor space (both convenience and comparison) and retail services, leisure and café / restaurant, office floor space and retail warehouse space proposed in the subject application as compared with the extant permission on the site.
- 7.4.6. The extant Neighbourhood Centre permission on the subject site, Reg. Ref. D18A/0257 (ABP Ref. 304396-19) is noted, in which permission was granted for 5,588 sq.m of net retail floorspace, in addition to 11,154 sq.m of retail warehouse floorspace. The proposed development represents a slight reduction in the quantum

of net retail floorspace provision, and a significant reduction in the quantum of retail warehouse floorspace. Both the PA and An Bord Pleanála have previously accepted the principle of the provision of 5,588 sq.m, net retail floorspace on the subject site, in addition to accepting a greater element of retail warehousing than is now proposed within the current application. The proposed neighbourhood centre element will serve the existing and future needs of the new and future populations in the developing areas of Carrickmines, Kiltiernan and Ballogan/Stepaside as per Specific Local Objective 82 contained in the CDP 2022 - 2028.

- 7.4.7. The provision of a neighbourhood centre at this location has been a long-standing objective within County Development Plans for Dún Laoghaire-Rathdown. As set out above both the previous and current statutory Development Plan and the Ballyogan and Environs Local Area Plan 2019 – 2025 have identified the appeal site as suitable for the provision of a Neighbourhood Centre with a net retail floorspace cap of 6,000 square metres and a leisure facility. Further the site has been designated as a neighbourhood centre in the Retail Hierarchy for the county and SLO 82 refers. The net retail floor space proposed is 5,550sqm. This accords with the scale of retail provision provided for under Site Specific Objective 82 as set out in the Development Plan to help serve the growth areas of Carrickmines, Stepaside, Ballyogan and Kiltiernan-Glenamuck and is therefore of a scale that is appropriate for the location and context of the appeal site.
- 7.4.8. There are no issues raised around the quantum of the retail component, retail warehousing, retail services and restaurant / café floorspace, gym, cinema and car salesroom in any of the PA or prescribed bodies reports. Given the extant permission and previous Inspectors assessment on this matter I consider that the proposed retail and retail warehouse component of the development would be acceptable in this instance and would be in compliance with Council Policy.

### **Office**

- 7.4.9. Section 6.4.2.9 of the CDP (2022 – 2028) Policy Objective E10: Office Development, states:

“It is a Policy Objective to facilitate significant additional office development in employment and commercial centres. The appropriate locations for office

development would generally be in employment zoned areas, Major Town Centres and District Centres.

Office developments will generally be considered appropriate in employment zones, Major Town Centres and District Centres. The extent of the employment landbank in DLR is quite low in comparison to adjoining Counties in the Dublin MASP area and there is an enhanced need to retain and protect these lands for employment purposes. The Dublin MASP identifies Sandyford, Cherrywood and Carrickmines as strategic employment locations in the Dublin Metropolitan Area. In line with this designation the Council considers these areas to be priority locations for the delivery of office development of scale. Proposals for office development at Sandyford and Cherrywood will be assessed in accordance with the Sandyford Urban Framework Plan and the Cherrywood SDZ Planning Scheme as appropriate. The Council will support the continued development of office accommodation at Carrickmines to retain and enhance its role as a highly accessible and strategic employment location”.

- 7.4.10. The proposed development incorporates a total of 31,082 sq. m GFA of office floorspace across the scheme. The majority of this is located within Blocks H, I and J, while further office space is also accommodated in the upper floors of Block E, which forms the southern side of the new public square.
- 7.4.11. The Planning Authority notes the proposed level of office floorspace represents a significant increase on the previously approved scheme on site (c.80% increase). However, on balance, the Planning Authority would also note that the retail warehousing in the extant permitted development was designed in a manner that it could have been converted to office use. It is the opinion of the PA that the proposed office component of the development accords with the zoning and council policy.
- 7.4.12. On the basis of the above, having regard to the underlying 'E' zoning objective, I concur with the PA and consider that the proposed office component of the development would be in compliance with Council policy regarding same and would accord with the zoning objective of the site.

## **7.5. Transitional Zone and Building Height**

- 7.5.1. The second reason for refusal (D21A/1145), set out in full in section 3.0 of this report considered that the proposed development, by reason of its scale, height and massing, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. The proposal is considered to be contrary to the Section 8.3.2 (Transitional Zonal Areas) of the CDP, 2016-2022, insofar as it would represent an abrupt transition in scale within this transitional location between the employment zoned land and the open space zoned land. The proposed development is also considered to be contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the CDP, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG).
- 7.5.2. Section 13.1.2 Transitional Zonal Areas of the New CDP 2022 – 2028 states:  
“The maps of the County Development Plan show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties”.
- 7.5.3. I agree that the subject site represents a ‘transitional zone’. The Planner’s Report notes that Block J (the stand alone six storey office building in the north-west of the site) achieves an appropriate transition in scale. However, the report goes on to state that Blocks A (1 – 11 storeys), B (3 – 9 storeys), C (5 – 8 storeys), and D (5 – 7 storeys) represent too abrupt a transition in scale between the ‘E’ zoned lands subject to the SLO to promote the development of a Neighbourhood Centre, and the ‘F’ zoned open space lands on which a new public park is proposed.
- 7.5.4. The first party is of the opinion that the Planning Authority overlooked the references which refer to the need to protect the amenity of residential areas, or residential elements within mixed use areas from abrupt transitions in scale beside them. It is submitted that none of the buildings within the proposed development abut any

existing residential areas. Block J ((6 storeys) is the closest built element to any area of existing residential use or residential zoning, and the Planning Authority have specifically stated that they consider its scale appropriate.

- 7.5.5. I agree with the first party that the aim of the wording in Section 8.3.1 of the Old Plan now 13.1.2 of the New Plan aims to avoid negatively impacting the amenity of residential areas at transitions between zoning.
- 7.5.6. I do not agree with the Planning Authority's opinion that Blocks A, B, C and D do not provide for an appropriate transition from the built element of the scheme to the proposed park on the 'F' zoned lands to the north and south of the Ballyogan Stream.
- 7.5.7. The first party submit that the transition from 'F' zoned parkland, to 'E' zoned lands (with a neighbourhood centre objective) has been very carefully considered.
- 7.5.8. Regard being had to SPPR 4, from DLPLG (2018) Urban Development and Building Heights, I tend to agree with the first party. It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:
1. The minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007) or any amending or replacement Guidelines.
  2. A greater mix of building heights and typologies in planning for the future development of suburban locations; and
  3. Avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.
- 7.5.9. I note the assertion that the importance of the transition from park to buildings is integral to the proposed design. The permeable massing of the residential buildings with views through to the neighbourhood centre draws people through the landscaping up into this new community hub in a natural way. It is submitted that the site topography and levels have been optimised, ensuring the park has an appropriate sense of activation particularly with the office blocks, residential amenity spaces and creche which are parkside and flow out into the park. The sense of

enclosure and visual interest created by the buildings fronting open space and the parkland setting provides a park environment that is balanced, integrated and accessible for all to use.

- 7.5.10. It is my opinion, that from the documentation submitted a clear rationale for the height strategy and transition or sweep across the site has been justified in terms of overall height rationale, the neighbourhood centre, views through the development, and courtyard views. The proposed buildings overlooking the park are designed to move from the Glenamuck road from a six storey to 7,8,9 storey with four storey courtyard blocks stitched between, rising to an eleven-storey building bookending the proposal. I agree this creates a focal point to the development and a landmark to the edge of the park. The north south axis means that the buildings provide a natural sense of enclosure to the residential courtyards.
- 7.5.11. The proposed neighbourhood square connects the existing Carrickmines retail park with the new neighbourhood centre and the new park. In view of the policy considerations and the identification of the site for redevelopment to a certain scale and strong presence to the public realm I consider that there will be an impact in terms of height and transition, the existing retail park is dominated by low rise buildings surrounding surface car parks, however the impact would be acceptable.
- 7.5.12. I tend to agree that the nature of the park, by virtue of its separation, location, scale, and design does not call for development to step down towards it. Cognisance is had that, best practice in terms of urban and architectural design, is that the nature of this transition calls for a strong urban edge, while also providing for passive surveillance of the park, and creating an attractive vista and appropriate design response.
- 7.5.13. The current appeal is accompanied by an Urban Design Statement prepared by Urban Initiatives which details a robust rebuttal of this aspect of the DLR reason for refusal, noting that the intent of Section 8.3.1 (previous Plan 2016) is not to restrict a contrast in height and scale at locations such as between the 'E' and 'F' zoned lands on the subject site. It is noted that the 'F' zoned lands are specifically zoned to provide open space (i.e. rather than buildings), meaning that a contrast in height and scale between the undeveloped open space and the developed 'E' zoned lands is inevitable.

7.5.14. Cognisance being had to the planning history of the subject site and the surrounding area, the BELAP which specifically promotes higher buildings on this site, and the broader recent national policy context including the NPF and the Urban Development and Building Height Guidelines which promote greater height at locations such as this, it is my opinion that the proposal is not contrary to the transitional zone at this location, given the unique circumstances of the subject site.

## **Height**

- 7.5.15. The development, for which a ten-year permission is sought, comprises a Gross Floor Area (GFA) of 91,288 sq.m, in eleven blocks varying in height from one to eleven storeys. The maximum height of the proposed development is 36.87m.
- 7.5.16. The maximum height proposed within the development is 11 storeys (for mixed use Block A comprising residential above ground floor commercial uses). Greater flexibility on building height in urban areas is promoted through the NPF and the 2018 Urban Development and Building Height Guidelines, with provision made for greater heights in order to increase density and maximise the use of land resource at appropriate locations.
- 7.5.17. Section 4.2 of the Building Height Strategy which forms Appendix 5 of the new CDP 2022 - 2028 sets out in detail the existing and planned local plan policy base guiding future building height and identifying areas for increased height. The alignment of those plans with the Guidelines is also stated. Section 4.3 which looks at Identification of Amenity and Environmental considerations also identifies areas suitable for increased height.
- 7.5.18. Three policy objectives pertaining to building height are set out in section 4.4 of the Building Height strategy. Each policy objective includes the following statement. "Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria".



- 7.5.19. Section 4.3.1.1 PHP18 (of the CDP) sets out the policy objective pertaining to density and is fully consistent with the recommendations of the “Sustainable Residential Development in Urban Areas (2007) Guidelines. The Building Heights Strategy allows for a mix of heights and Policy Objective PHP27 and section 12.3.3.1 sets out objectives and requirements in relation to mix in what are termed new residential communities which would include edge of the built-up area locations.
- 7.5.20. The Ballyogan and Environs LAP (BELAP) contains specific guidance regarding where taller building could be accommodated within the Glenamuck Road local area.
- 7.5.21. Policy BELAP RES3 - Building Height by Neighbourhood states that the building heights of residential schemes shall be informed by the considerations set out in Table 5.5, unless otherwise indicated by the detailed provisions of any Site Development Frameworks, where applicable, and subject to Policy BELAP RES4.
- 7.5.22. The Planning Authority notes that a Site Development Framework has not been prepared for this site.
- 7.5.23. Table 5.5 identifies Key Considerations Regarding Building Height:
- A Neighbourhood Centre adjacent to Ballyogan Road and M50 corridors has capacity for high buildings.
- 7.5.24. Policy BELAP RES4 - Locations for Higher Buildings identifies the Park Carrickmines, as a suitable location for higher buildings within the BELAP area. The policy notes that all of the suitable locations 'bar one' would be suitable for residential buildings. The policy notes the designation at The Park Carrickmines is subject to 'E' Zoning Objective, where residential is 'open for consideration' under the County Development Plan, however, BTR- residential and as such, any proposed use mix would need to display compliance with this zoning objective. I note the CDP change and highlight that in the new CDP 2022 – 2028 BTR – Residential is 'not permitted' or 'open for consideration' on 'E' Zoned lands.
- 7.5.25. The Planning Authority notes that no quantitative height limits are contained within the BELAP. Instead, BELAP Policy RESS requires that any planning application for a scheme which proposes buildings in excess of 4 storeys shall be accompanied by an analysis of building height and positioning of buildings with reference to a number of issues:

- Impacts on the immediate and surrounding environment - streetscape, historic character.
- Impacts on adjoining structures with a focus on overlooking and impact on residential amenity.
- Relationship to open space and public realm
- Views and vistas.
- Daylight and sunlight, including shadow analysis where appropriate
- Wind and microclimate analysis.
- Impacts on residential amenity of these buildings from noise sources such as motorway noise.
- Placemaking and the ability of taller buildings to assist with legibility and wayfinding within a neighbourhood.

7.5.26. As part of the application, the Applicant has submitted a Design Statement, prepared by Urban Initiatives Studio, which provides the urban design justification and a building height rationale for the proposal. Chapter 6 of the report provides a tabulated summary of the proposal against assessment criteria set by the National Building Heights Framework, the CDP and the BELAP. In addition, the Applicant has submitted an Architectural Design Statement, prepared by HJL, which also provides a development height rationale for the proposal.

**At the scale of the relevant city/town**

7.5.27. The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. The subject lands are highly accessible, located in close proximity (c. 100 metres) to an existing Luas stop at Ballyogan providing links with the city centre and other centres, providing high frequency, high capacity public transport service in close proximity to the proposed development. The site is also within close proximity (less than 250 metres) to existing bus services. Thus, the site has access to high quality, high capacity, and high frequency public transport services. The site is therefore considered to benefit from a high level of accessibility in respect of public transport.

7.5.28. The LUAS Green Line is a high capacity public transport service. This is expressly recognised within Section 2 of the 2022 Apartment Guidelines which defines central / accessible urban locations with reference to such locations being “within reasonable

walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas)". Each LUAS tram has a capacity for hundreds of passengers (up to 408 per tram per the NTA website) and is by definition a high capacity public transport service.

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

- 7.5.29. The scale of the proposed development is considered to integrate appropriately with its surroundings, whilst introducing an element of increased height. This strong urban edge provided by the development to the new neighbourhood park will provide for increased passive surveillance of the proposed new public space, and steps up towards the west of the site, culminating in a residential building with ground floor commercial uses (Block A), with an overall height of 11 storeys over basement / lower ground floor levels. The building heights of the taller scheme elements facing the proposed park have been carefully modulated and selected to provide for a progression of height and a sense of visual interest.
- 7.5.30. The proposal will provide for a strong sense of place and a high quality new public realm which will be more comfortable and inviting for pedestrians due to improved enclosure, and permeability around and through the scheme. The scheme responds both to its existing and permitted / planned context, which will see the development of the wider area. The scale of the Quadrant 3 site allows for the proposed development to define its own scale and grain, without any material impact on surrounding uses.
- 7.5.31. The accompanying contiguous elevations and sections provided by HJL illustrate the proposed building height in the context of the existing urban environment.
- 7.5.32. Further details and rationale in relation to the proposed character of the development, public realm, and urban design can be found within the accompanying Urban Design Statement prepared by Urban Initiatives.

7.5.33. The visual impact of the proposals are discussed in greater detail in the accompanying Townscape and Visual Impact Assessment by Kennett Consulting, which is included as part of the Environmental Impact Assessment Report. The TVIA sets out that the impact of the proposed development will be significant, but positive, as it forms part of the wider changes to the landscape and visual context as provided for under the Development Plan and the LAP for the area. It is noted that the LAP for the area specifically references The Park as an appropriate location for taller buildings.

**On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.**

7.5.34. The proposed development site extends to approximately 10.4 hectares and is therefore considered to be a 'larger urban redevelopment site' (albeit the subject site is a site which has not previously been developed). The proposals are considered to make a positive contribution to place-making through a high quality development which integrates with the existing development pattern and enhances the public realm along adjoining routes.

7.5.35. The proposals also promote pedestrian linkages through the development with attractive public realm and open space surrounding the proposed buildings. This promotes public movement through the site and facilitates pedestrian desire lines through the site to access the nearby Luas stop and surrounding areas, including providing for future linkages with parks to be delivered on nearby lands by the Local Authority.

7.5.36. The development creates visual interest at the site through a high quality design which responds to the surrounding pattern of development.

7.5.37. The proposals will deliver a new Neighbourhood Centre for the wider catchment area, which will contribute significantly to the character of the emerging places in the valley corridor. The development will provide a new central focal point for the region, in alignment with the objectives of the Ballyogan LAP.

- 7.5.38. The Landscape and Visual Impact Assessment submitted as a chapter of the EIAR sets out that the proposed development will make a positive contribution to the townscape of the locality through its high standard of design.
- 7.5.39. The establishment of a street based development with pedestrianised public spaces and a large, accessible green space will contribute to the area's identity as a focal centre. The proposal will deliver new, vibrant public and amenity spaces that will serve the wider community and assist in the establishment of a strong place identity.
- 7.5.40. It will also establish new strategic routes which will improve connectivity and legibility. The proposed heights and massing of the buildings is proportional to their strategic role in the wider place hierarchy and their associated legibility functions. In this respect, the proposals are considered to be of an appropriate scale, height and massing to complement the existing urban form whilst successfully introducing a high-quality element of architecture to the site, making optimal use of the strategic, prominent location on a site which is of a sufficient scale to accommodate the nature and height of development now proposed.

**At the scale of district/neighbourhood/ street**

**The proposal responds to its overall natural built environment and makes a positive contribution to the urban neighbourhood and streetscape.**

- 7.5.41. The proposal responds well to its spatial context. As the site is located in a spot of low elevation, within a wider semi-open landscape, the development as a whole is designed to respond to the unique site topography and position in the wider landscape at the foot of the Foothills. The graduated scale of buildings across the site read as a cohesive and logical urban form within the wider landscape.
- 7.5.42. In contrast, the tall building will respond to this character to establish a visible marker of the Neighbourhood Centre within the wider townscape/landscape.
- 7.5.43. The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.
- 7.5.44. The proposed buildings share a coherent architectural language, materiality and form which assists in establishing a strong visual statement. The architectural form and massing of the proposal responds positively to the surrounding context and will add interest and visual delight to the streetscape. The facade typologies and use of

human scale materials throughout will contribute to the quality and diversity of the neighbourhood setting.

7.5.45. The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management-Guidelines for Planning Authorities" (2009).

7.5.46. The proposal creates an appropriate scale of enclosure for a neighbourhood centre streets and public square. The buildings create positive and active frontages to the public spaces and key thoroughfares, which will help to animate the streets.

**The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered.**

7.5.47. The proposal introduces a series of new commercial, mixed use neighbourhood centre and residential buildings, constructed with high quality materials which relate well to the site's location and the style and palette of neighbouring properties and the wider existing context, avoiding any long, uninterrupted walls of buildings in the form of perimeter blocks or slab blocks.

7.5.48. The Design Statement prepared by HJL Architects and the Urban Design Statement prepared by Urban Initiatives provide details in relation to the proposed materials and finishes proposed, with detailed elevational design drawings included within the HJL Architect's drawing pack.

7.5.49. The layout and siting of the development has been sensitively chosen to create attractive new streetscapes along surrounding routes, giving the area a more urban feel, and imbuing it with a greater sense of place. Elevations have been carefully designed and introduce varied aspects, through recessed styles and elements stepped out from the dominant building lines. The various blocks within the scheme vary in terms of their expression, materiality, and height, to provide for an enhanced sense of place.

7.5.50. This provides variety and visual interest to the buildings. This is complemented by a high quality hard and soft landscaping scheme which further enhances the visual appeal of the proposals, as well as attracting public use and animation long the street frontages and within the internal courtyard and garden spaces. No long, uninterrupted walls are proposed in the form of perimeter or slab blocks, as the scheme effectively varies in height, and steps to avoid any sense of monotony.

**The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management - Guidelines for Planning Authorities" (2009).**

7.5.51. The proposed development will significantly enhance the existing Ballyogan Road and Glenamuch Road corridors which adjoin the site. It will provide for a high-quality contemporary development at an appropriate location and make a significant contribution to the existing streetscape.

7.5.52. The proposal introduces a development which is compatible with its land use zoning and adjacent development. The scheme introduces significant new public open spaces, including a significant new park along the Blallyogan Stream, and a new neighbourhood square, in addition to a number of new public areas and routes through the site, including a vibrant new main street for pedestrians, activated by shops, restaurants, and service uses at ground floor level. The scheme includes residential development above ground floor level in line with the objectives of the BELAP for this site.

7.5.53. The proposed development makes optimal use of an underutilised area of land which benefits from a strategic location.

7.5.54. The Site-Specific Flood Risk Assessment prepared by RPS Consulting Engineers demonstrates the compliance of the scheme with "The Planning System and Flood Risk Management - Guidelines for Planning Authorities" (2009). None of the proposed buildings will be located within Flood Risk Zones A or B. The proposal makes a positive contribution to the improvement of legibility through the site or

wider urban area within which the development is situated and integrates in a cohesive manner.

- 7.5.55. The site is located in a rapid urbanising valley corridor that is characterised by fragmented emerging development. The area is currently characterised by piecemeal development that lacks good connection and integration especially for walking and cycling due to the M50 severance and a lack of infrastructure.
- 7.5.56. The development, with its form and heights will contribute to the objectives of the Ballyogan and Environs LAP to bring forward strategic, well-located land in a way that contributes positively to the Park and the wider area and provides for the local variation and distinctive identity of places, but simultaneously brings forward a focal centre to establish legibility and sense of place within the local area

**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. Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd Edition) or BS 8206-2: 2008 - 'Lighting for Buildings - Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanla 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.**

- 7.5.57. The proposed scale, massing and height of the development has been informed by the existing, planned and emerging built environment in the surrounding area. The scale and height of the proposed residential blocks take cognisance of the surrounding urban form, providing for a strong edge to the proposed neighbourhood park, allowing for an appropriate level of enclosure to new pedestrian and public spaces within the scheme, and allowing for a graduation and variety of building



height on a site which is large enough to define its own context without impacting on any neighbouring uses This is seen to integrate successfully with the urban environment whilst introducing an element of height which effectively responds to the site's strategic location.

7.5.58. A detailed Sunlight / Daylight Analysis and Shadow Analysis have been carried out by 3D Design Bureau in the preparation of this application, which indicates good daylight access for the proposed development, with no significant impact on surrounding properties. Wherever full compliance with the guidance is not achieved, a comprehensive range of compensatory measures are provided, as set out within the Sunlight and Daylight report (albeit this is only relevant to a small percentage of the overall units, as full compliance is predicted in c. 95% of cases).

7.5.59. The planning application is accompanied by an EIAR incorporating noise and air quality assessment chapters, which include mitigation measures to ensure a healthy and comfortable environment for residents and visitors to the scheme. A wind assessment has also been undertaken, with design-based mitigation to avoid any negative microclimate impacts arising from proposed buildings. The design of the scheme has followed an iterative approach, with repeated modelling of wind and sunlight/daylight impacts allowing for the incorporation of extensive design-based mitigation via changes to the building and landscape design of the development since the pre-application stage with the Planning Authority.

**Specific Assessments:**

**Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.**

7.5.60. The proposal is supported by a Wind and Microclimate Assessment

**In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.**

- 7.5.61. The site is not located in proximity to sensitive bird or bat areas, while the Biodiversity chapter of the EIAR confirms that the proposed development, including the proposed heights, will not give rise to any significant impact in relation to flight lines / collisions.
- 7.5.62. This application is accompanied by a AA Screening Report which demonstrates that the proposed building heights do not have the potential to adversely impact on the biodiversity of the area. As outlined in the AA Screening and Biodiversity the development site does not provide suitable habitat for ex situ bird species associated with any protected site, based on full winter bird surveying. Also, no bat roosts have been identified on site and mitigation is provided within the Biodiversity chapter of the EIAR to ensure that no significant impact on bats will arise.
- 7.5.63. The EIAR and supplementary additional information on file goes on to confirm that, with the correct mitigation implemented, the lighting on site will also not present a significant impact on bats.
- 7.5.64. The site is not deemed to be located in a sensitive area in terms of bird flight paths i.e., it is not located along the coast, or near any Special Protected Areas (SPAs) designated for wetland bird populations and is in itself not deemed to represent suitable ex-situ feeding/roosting habitat for any such species, as is borne out in the results of the winter bird surveys of the Site.
- 7.5.65. In addition, the proposed development entails building heights ranging from one to eleven storeys in height, with a maximum height of 36.87 metres. As such, the risk of migrating birds colliding with the structures due to their height is deemed to be negligible [Migrating species tend to commute far above this with Swans and Geese flying up to 2500ft (ca.750m) during migration along Irish Coasts (Irish Aviation Authority, 2020)].
- 7.5.66. The overall facades of the proposed structures are well broken up, with a varied material composition which breaks up their respective reflective components. These architectural design features provide important visible cues as to the presence and extent of the proposed structures to any commuting/foraging bird species should they be in the vicinity of the Site. This overall visual heterogeneity of the building facades will be sufficient to ensure that the risk of bird collisions is negligible.

**An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.**

7.5.67. The proposal is supported by a Telecommunications report which concludes that based on the findings the proposal "satisfies the criteria of Section 3.2 of the Building Height Guidelines."

**An assessment that the proposal maintains safe air navigation.**

7.5.68. The proposal is supported by an Aeronautical Assessment Report which concludes that "the proposed residential and mixed-use neighbourhood centre at Quadrant 3, Carrickmines, Dublin 18, complies fully with all aviation and aeronautical considerations and requirements affecting the site."

**An urban design statement including, as appropriate, impact on the historic built environment.**

7.5.69. The proposal is supported by an Architectural Design Statement, Heritage Impact Assessment (key findings summarised in "Heritage impact" on page 82), Landscape & Visual Impact Assessment (key findings summarised in "Landscape/Visual impact" on page 83), Urban Design Statement (this document) which provide a comprehensive overview of the local and wider urban design and townscape sensitivities, impacts, and mitigations.

7.5.70. The proposed development has been designed to respect and enhance the surrounding character of the area. The proposed layout of the development appropriately responds to the site's context and character. There are no historic buildings or protected structures in the vicinity of the proposed development.

**Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.**

7.5.71. The application includes a full Environmental Impact Assessment Report, which includes a chapter dealing with Biodiversity. An Appropriate Assessment Screening Report is also included as part of the application.

**Impacts on the immediate and surrounding environment- streetscape, historic character.**

7.5.72. The proposal is supported by an Urban Design Statement which provide a comprehensive overview of the local and wider urban design and townscape sensitivities, impacts, and mitigations.

**Impacts on adjoining structures, with a focus on overlooking and impact on residential amenity.**

7.5.73. The site location is not closely adjacent to existing structures and will not impact on their amenity. The proposal is designed to limit overlooking between the proposed buildings on the site.

**Relationship to open spaces and public realm.**

7.5.74. The layout is highly accessible for future occupants as well as the existing community with a permeable layout within the site.

7.5.75. The proposal will positively form new public spaces that will be the heart of the new Neighbourhood Centre. The proposal will also bring the Zone F Protected Green Space to the north of the site into more beneficial use as a community resource.

**Views and vistas.**

7.5.76. The proposal is supported by a Landscape/Visual Impact Assessment.

**Daylight and sunlight, including shadow analysis where appropriate.**

7.5.77. The proposal is supported by a Day and Sunlighting assessment.

**Wind and microclimate analysis**

7.5.78. The proposal is supported by a Microclimate Assessment and key findings outlined in detail in "Environmental Impact/ Microclimate impact" on page 83 of the Environmental Impact Assessment.

**Impacts on residential amenity of these buildings from noise sources such as motorway noise.**

7.5.79. The proposal is supported by an Environmental Impact Assessment.

**Placemaking and the ability of taller buildings to assist with legibility and wayfinding within a Neighbourhood.**

- 7.5.80. The proposed tall building is well justified at both a local and district level as it provides a primary local function by marking an important local centre of activity, gateway, route, and public space and a primary district function as a significant regional retail and employment centre.
- 7.5.81. The proposed development also has regard to the Urban Design Manual (2009) and the Guidelines for Planning Authorities on 'The Planning System and Flood Risk Management (November 2009)
- 7.5.82. Policy UD1 of the CDP, in relation to Urban Design Principles, it is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place' in line with guidance principles set out in the 'Urban Design Manual - A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013), and to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.
- 7.5.83. While the Planning Authority considers that the proposed layout, architectural language and design, the proposed public realm and landscaping is of high quality and has the potential to contribute to an attractive and vibrant neighbourhood centre, it is considered that the proposed development, by reason of its overall height, massing and scale, would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment and existing established pattern of development in the immediate vicinity of the subject site.
- 7.5.84. Policy BHS 2 recommends new development accords with the content of 'Building Height Strategy' (BHS\_ (Appendix 5) Building height in areas covered by an approved LAP or UFP for the County. The Strategy notes that in respect of larger development sites, such as Carrickmines, heights greater than six storeys have been permitted. Provision is made for greater height within larger greenfield areas and in certain exceptional circumstances, such as in significant commercial or employment zones such as Carrickmines. The proposed development provides for a wide variety of heights based on the urban context of the site and the urban design vision for the neighbourhood centre, as elaborated on within the HJL Design Statement and Urban

Initiatives Urban Design Statement. The maximum height proposed within the development is 11 storeys (for residential Block A above ground floor commercial uses) Greater flexibility on building height in urban areas is promoted through the NPF with provision made for greater heights in order to increase density and maximise the use of land resource at infill and vacant locations. In this regard, it is my opinion contrary to the opinion of the PA that the proposals comply with the Development Plan and are seen to reflect the existing development located within the Park. As noted hereinafter, the BELAP specifically identifies the subject site as an appropriate location for higher buildings.

7.5.85. I tend to agree with the findings of the Urban Design Report submitted in support of the subject application for the Carrickmines Q3. That the proposed development:

- Responds appropriately and positively to the site and its immediate and wider context,
- Would provide an appropriate mix and density of uses to deliver an attractive and viable neighbourhood centre, (cognisance being had to the residential – BTR units proposed).
- Doubles the amount of office floor space and creates a modern and desirable employment destination,
- Would deliver a well designed, legible and distinctive urban quarter with a strong sense of place and appeal,
- Would bring a step change to Carrickmines and support sustainable growth in Dun Laoghaire Rathdown County, and
- In terms of building height and transitional zone meets all the relevant requirements for positive assessment in respect of planning policy and in particular would accord with Policy BELAP RES4.

## 7.6. Residential Accommodation and Mix

7.6.1. The new County Development Plan (2022 – 2028) sets out revised unit mix requirements. The unit mix requirements are to be applied to the BTS apartments only. This follows the Ministerial Direction to DLRD which states:

“In accordance with Section 31 of the Planning and Development Act 2000, those parts of the Dún Laoghaire-Rathdown County Development Plan 2022 – 2028

referred to in the notice, **have not come into effect and shall be deleted** from the adopted Development Plan”:

Refers to:

“The second paragraph of Section 12.3.3 ‘Quantitative Standards for All Residential Development’ of Chapter 12 (pg. 236) of the Written Statement, which states: “*That the requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix on page 237.*”

- 7.6.2. I note for the attention of the Board issues raised with regard to principle of ‘BTR – residential’ use class not being acceptable within ‘E’ Zoned lands. This matter has been dealt with separately in this report.
- 7.6.3. Table 12.1 ‘Apartment Mix Requirements’ of the CDP states that schemes of 50+ units within new residential communities “may include up to 60 studio, one and two bed units and with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios”. It is further stated that a minimum of 40% 3-bed plus units should be provided.
- The proposed development will provide for 440 no. residential apartments, to include 308 no. Build to Rent apartments, within 4 no. blocks.
  - The proposed BTS apartments comprise:
    - 46% - 61 no. 1 bedroom units,
    - 45% - 60 no. 2 bedroom units, and
    - 8% - 11 no. 3 bedroom units within Block A.
  - The BTR apartments comprise:
    - 39% - 121 no. 1 bedroom units,
    - 55% - 170 no. 2 bedroom units, and
    - 6% - 17 no. 3 bedroom units within Blocks B, C, and D.
  - 1,278 sq. m GFA of resident’s amenity floorspace is located within Blocks A, B, C, and D.

- 7.6.4. Therefore, the proposed development is considered to represent a material contravention of the new County Development Plan (2022 – 2028) as it relates to unit mix for BTS.
- 7.6.5. The CDP considers that the findings of the Housing Strategy and HNDA have informed policy PHP27 in relation to mix (refer to Appendix 2 Housing Strategy and HNDA 2022 – 2028).
- 7.6.6. Section 4.3.2.3 Policy Objective PHP27: Housing Mix states:  
“It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA”.
- 7.6.7. Due regard is had to SPPR 1 (relating to unit mix and that there shall be no minimum requirement for apartments with three or more bedrooms) and SPPR 8 (relating to no restrictions on dwelling mix and all other requirements, unless otherwise specified) of the ‘Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities, 2018, as amended’.
- 7.6.8. A Housing Strategy and HNDA has been prepared (See Appendix 2 of the CDP) and has demonstrated that there is a requirement for a mix in order to cater for the housing needs of the existing and future population in the County. Policy Objective PHP27 and section 12.3.3.1 set out objectives and requirements in relation to mix. This complies with SPPR 1.
- 7.6.9. The reasons for refusal do not consider the subject application is contrary to or a material contravention, cognisance being to the Plan change and the introduction of Table 12.1 Apartment Mix Requirements, it would now, in my opinion, be contrary to and or give rise to a material contravention of the statutory Plan which came into effect on the 21<sup>st</sup> April 2022 and therefore should be refused.
- 7.6.10. While it is open to the Board to grant permission pursuant to the provisions of section 37 (2)(a) of the Planning and Development Act 2000, as amended. I note the applicant’s argument that the proposed development is of strategic and national importance and therefore satisfies the first of the criteria under section 37(2)(b).



However, I am not open to a material contravention of the Plan in this instance. The DLRDCDP 2022 – 2028 is a new Development Plan which was subject to analysis by the OPR and no issues were raised with respect to apartment mix requirements for build to sell apartment. Cognisance is had to the ministerial direction in relation to build to sell apartment and SPPR 8 and to the HNDA Housing Strategy. I see no reason to materially contravene such a new Development Plan should the Board disagree it is open to them to do so and grant permission pursuant to the provisions of 37(2)(b), relevant Guidelines under Section 28 of the Act and Government Policy Housing for all.

## **7.7. Transportation**

- 7.7.1. The DLRCC Decision (reg. Ref. D21A/1145) to refuse permission provided two number reasons for refusal neither of which specifically relates to transport, traffic or roads. Within their reports TII, NTA and DLRDCC Transportation Department made a number of comments in relation to car parking provision and the linked impact of vehicular trips on the road network.
- 7.7.2. The Transportation Planning Report outlines the main elements of the scheme in relation to transportation which includes access to parking, bus services, pedestrian facilities, cycle network and parking, car parking facilities, underground car parks and cycle parking facilities. It recommends further information as set out in detail in the 'Technical Reports' section 3.2.2 of this report above.
- 7.7.3. The report recommends requesting Further Information on matters pertaining to the quality and road safety audit, the car parking management strategy, taking in charge, toucan crossing, autotrack drawings, pedestrian and cyclist priority, priority cycle access to the Greenway and Jamestown Park, car parking spaces, underground parking layout, details of car sharing and car clubs, cycle parking shown designed in accordance with the Dun Laoghaire Rathdown County Council - Standards for Cycle Parking and associated Cycling Facilities for New Developments (January2018), details of shower and locker facilities for proposed office and neighbourhood centre staff, drawings of cargo bike and e-bike cycle parking facilities, electric charging points, bus stop design and location and delineated pedestrian routes.
- 7.7.4. The report considers that the proposed level of residential car parking proposed at 396 No spaces for 440 residential units, a ratio of 0.9 spaces per unit, is not

acceptable as it is too low. They have requested that as a minimum a ratio of 1 space per residential unit in line with DHPLG design standard for new apartment guidelines should be provided.

- 7.7.5. The NTR report notes the quantum of parking proposed at 1,184 would be below the maximum permitted by the County Development Plan however is considerably higher than the 710 spaces permitted by An Bord Pleanála in the appeal case on the previous application (Condition 17(b)). The NTA submits that the Applicant has not adequately demonstrated a rationale for the quantum of parking proposed. The NTA also notes condition 4 of the previous application which required the Applicant and the Planning Authority to agree a car parking management strategy for the wider area should be reapplied should permission be forthcoming.
- 7.7.6. An Taisce have also raised concerns that the increase in scale of the proposed development from the development permitted per Reg. Ref. D18A/0257 is too great for the location, taking into account the transport infrastructure. An Taisce considers the proposed development is too car-dependent and notes reliance is made on proximity of the site to the Ballyogan Wood stop on the LUAS Green line and considers that the development should be assessed with regard to the capacity of same.
- 7.7.7. The first party appeal response sets out that in the first instance the subject planning application differs materially in scale from the previously submitted scheme. For example, the number of residential units has increased as has the quantum of office space. Therefore, overt comparisons to the overall car parking provision between the subject scheme and the permitted scheme is devoid of context and without reference to the detailed justification of the proposed parking provision.
- 7.7.8. A total of 1183 car parking spaces are proposed, broken down into:
- Office 210
  - Other Non-Residential Uses 577
  - Residential 396
- 7.7.9. The development as originally proposed to DLRCC provides 396 no. car parking spaces located at basement level to serve the proposed residential (including Build

to Rent residential) units. Given the 440 no. units within the proposed development this results in a car parking ratio of c. 0.9 spaces per apartment.

7.7.10. The revised proposal is proposing to further reduce the level of car parking for the subject site. Revised proposal submitted with the first party appeal include an updated basement drawing prepared by HJL Architects. The revised parking quantum has an overall total of 1,017 spaces and broken down into:

- Office 211
- Other non residential uses 542
- Residential 264

7.7.11. In terms of non residential uses the revised parking numbers (as indicated within the HJL basement drawing submitted with the appeal) would be in line with the new DLRCDDP 2022- 2028, with the difference of 4 no. car parking spaces difference reflecting a slightly higher office car parking quantum, which is considered to be immaterial.

7.7.12. It is proposed to reduce the level of proposed residential parking as part of the appeal by 132 spaces to 264 spaces which is a ratio of 0.6 car parking spaces per apartment. The proposed reduced car parking spaces is considered compliant with National and Regional Policy and guidance (NPF / NDP, GDA Transport Strategy) that encourages car parking constraint in areas where there is good access to public transport infrastructure, services and amenities. The proposed development is adjacent to the Luas (via Ballyogan Wood Luas Sop) as well as numerous bus services, cycle infrastructure and has excellent linkages to services and amenities both within The Park Carrickmines and in the local area making it ideally suited for '15 minute neighbourhood principles' providing opportunities to live, work and pursue leisure activities locally. I agree that these characteristics make this site ideally suited for a lower rate of car parking.

7.7.13. This approach, I consider, is in line with the recommendations in the Design Standards for New Apartments 2018. The location of the development falls within the Central and / accessible Urban Locations in terms of transport in that it is well served by public transport being 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minutes

peak hour frequency) bus services where the guidance states that the 'default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances'. I support this revised parking provision and recommend that should the Board be minded to grant permission that a condition regarding same be attached.

- 7.7.14. Given the above guidance and the specific site circumstances of proximity to the LUAS and bus services, it is my opinion that a reduction in residential car parking is considered appropriate and consistent with policy and design guidance.
- 7.7.15. Having regard to the information submitted in respect of Luas Capacity, public transport services in the vicinity of The Park Carrickmines, number of trains per hour, frequency of services operating from Ballyogan Wood Luas Stop, projected population based upon average occupancy, I agree that the loading from the proposed development on Luas peak services towards the city in the AM will be fairly minor in scale, in the context of the carrying capacity of this high quality public transport service.
- 7.7.16. An outline car parking management strategy has been submitted with the First Party Appeal. Should ABP be mindful to grant permission for the proposed developed then a condition requiring a car parking management strategy in Line with NTA/ TII recommendations is recommended and I note acceptable to the first party.
- 7.7.17. It is submitted that subject to a grant of permission by ABP a Service Management Plan can be conditioned that provides further details on the servicing strategy for the development if this is required for clarity and certainty by ABP / DLRCC.
- 7.7.18. The provision of residential cycle parking numbers for the proposed development will be in line with the DHPLG Apartment guidelines for the proposed development. Access to cycle parking located with the various basements of the proposed development are provided with segregated access facilities. The location and quality of the proposed short stay cycle parking within the public realm can be agreed via an appropriately worded condition should permission be granted by ABP. A mobility management plan shall be put in place.
- 7.7.19. I am satisfied that given the location of the appeal the layout of the proposed scheme as amended together with the completion of the new Link Road and the vehicular movement generated by the scheme. It would not have a significant material impact

on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall, I am satisfied that the proposed development will not result in the creation of a traffic hazard.

- 7.7.20. Given that I am recommending a refusal of permission, on unacceptable principle of the development and more fundamental grounds I do not consider it necessary to interrogate the full wording of conditions attached to ABP Ref. 304396-19 Reg. Ref. D18A/0257 pertaining to traffic, access and car parking. However, should the Board disagree and consider that a grant of permission should be forthcoming I recommend that such conditions may be relevant in part or in full and should be reattached to any decision to grant planning permission.

## **7.8. Drainage & Flood Risk Assessment**

- 7.8.1. The Applicant has submitted a Site-Specific Flood Risk Assessment, prepared by RPS Group.
- 7.8.2. The initial Drainage Planning Report of the PA recommended requesting Further Information. See section 3.2.2 Technical Reports section of this report above.
- 7.8.3. With respect to the EIAR, the PA notes the Flood Risk Assessment carried out by RPS group. It recommends requesting further details of all critical storm events assessed.
- 7.8.4. The planning appeal response includes a detailed response to the further information items raised in the surface water drainage report. The revised and updated drainage design drawings, catchment layout drawing, in-depth details of attenuation, green roof details, a Storm Water Audit, SuDS measures and details of flood impact.
- 7.8.5. The PA's response is accompanied with a revised Surface Water Drainage Report. The report notes that issues raised have been comprehensively addressed in the first party appeal documentation and the information submitted generally satisfies the requirements of the Drainage Planning Division subject to condition.
- 7.8.6. In summary, all buildings and access roads will be located within Flood Zone C. All development within Flood Zones A and B is limited to water compatible uses such as landscaping and access roads. A minimum freeboard of 2.565 m is provided from the 0.1% AEP flood level inclusive of climate change and the proposed landscaping

and overall development does not increase flood risk to areas upstream or downstream.

- 7.8.7. A Justification Test was carried out for the proposed development as it is located in Flood Zones A and B. It concluded that all the relevant criteria set out in DOEHLG (2009) were satisfied and development at the proposed site is appropriate.
- 7.8.8. Having regard to the information available there is no justifiable reason to refuse permission on grounds of drainage and flooding. However, should the Board be minded to grant permission it is recommended that a condition be included requiring the development to comply with the requirements of the relevant DLRCC Water Services and Drainage Departments together with the mitigation measures set out in the EIAR.

## 7.9. **Biodiversity**

- 7.9.1. The Biodiversity report of the PA recommends requesting Further Information as well as addressing inconsistencies between EIAR chapters and drawings.
- 7.9.2. With respect to EIAR Chapter 5, Biodiversity, the report recommends requesting Further Information in relation to habitats and botanical surveys, bats, breeding birds, aquatic habitats and amphibians, invasive species, vegetation clearance, mitigation measures, monitoring and omissions.
- 7.9.3. With respect to Appropriate Assessment, the report recommends requesting Further Information in relation to matters pertaining to omissions and inconsistencies.
- 7.9.4. With respect to EIAR Chapter 8, Landscape (and associated drawings) the report recommends requesting Further Information in relation to matters pertaining to tree planting plan, soft planting, planting specifications of species, and recommends that an overall planting regime be set out in a revised Landscape Master Plan and explained in a revised Landscape Chapter 8 in the EIAR.
- 7.9.5. With respect to the Lighting Plan, the report recommends requesting Further Information in the form of a revised lighting plan which sets out the measures to be implemented in respect of bat protection during construction and operation, as agreed with the bat specialist.

- 7.9.6. With respect to Invasive Species management, the report recommends requesting Further Information in the form of An Invasive Species Management Plan prepared by a suitably qualified Invasive species specialist, that will be also be incorporated into relevant sections of the EIAR, the Construction Environmental Management (CEMP), and Operations Environmental Management Plan (OEMP).
- 7.9.7. The first party appeal is accompanied with a revised Biodiversity Report and an updated EIAR. Additional habitat and flora surveys were conducted at the site on March 15<sup>th</sup> 2022 by Enviroguide Consulting. A second breeding bird survey was conducted on the 15<sup>th</sup> March 2022. The survey was carried out within the early part of the breeding / nesting season to enable an adequate assessment of any early nesting species at the site. The results of the survey are detailed in section 5.3.5.5 of the revised Biodiversity Chapter, with no evidence of early breeding / nesting species noted at the site.
- 7.9.8. A focused amphibian survey was conducted on the 15<sup>th</sup> March 20022, with all drainage ditches, area of pooling and the banks of the Ballyogan Stream surveyed for evidence of breeding amphibians. The results of this survey are detailed in Section 5.3.5.6 with no evidence of breeding Frog or Smooth newt recorded despite a thorough survey being conducted. The site contains no suitable smooth newt breeding habitat but does contain suitable habitat for breeding frog.
- 7.9.9. An additional invasive flora species survey was conducted along with the habitat and flora survey on the 15<sup>th</sup> March 2022. No additional invasive flora were noted at the site. In addition, Invasive Plant Solution Limited (IPS) carried out a site inspection on the 7<sup>th</sup> March 2022, to validate the current status of the two Japanese Knotweed (JK) stands previously recorded at site. IPS have devised a technical note. A site specific JK infested soil remediation process and a Construction Stage JK Management Plan will be prepared by a specialist prior to the commencement of development and shall be subject to review.
- 7.9.10. A suitably qualified Ecological Clerk of Works (ECoW) will be retained to supervise clearance of scrub / vegetated areas at the site and survey for any burrow / setts / dens as the clearance is carried out.
- 7.9.11. The EIAR Biodiversity Chapter has been updated following the additional surveys carried out on the 15<sup>th</sup> March 2022. An Operations Management Plan (OMP) will be

prepared prior to the commencement of development and in agreement with DLRDCC.

- 7.9.12. A Construction monitoring plan and an Operational monitoring plan will be prepared for DLR Biodiversity Officer to sign off on, prior to the commencement of works. A suitably qualified ECoW will be retained to ensure those plans are carried out.
- 7.9.13. Due to the lack of suitable amphibian breeding habitat or signs of breeding activity at the site, this group are not deemed to represent Key Ecological Receptor (KERs) at the site. However, as a precautionary measure construction phase monitoring for evidence of amphibian breeding activity at the site has been included in the EIAR Biodiversity chapter (section 5.10) and will be included in the Construction Phase Monitoring Program for the proposed development.
- 7.9.14. The AA Screening Report has been amended to reflect omissions and inconsistencies on legislation referencing.
- 7.9.15. The PA's response to the first party appeal, dated 19<sup>th</sup> April 2022 notes and has regard to the appeal documentation relevant to biodiversity – including the revised EIAR, the revised AA Screening report along with relevant details in the various other revised documents – in respect of the proposed development. It recommends that should permission be forthcoming from the Board that 13 detailed conditions be attached.
- 7.9.16. I note for the attention of the Board the report from Inland Fisheries Ireland (IFI) summarised above in section 3.3 of this report. It is notable that the EIAR addresses the matters raised and I note the applicant's commitment that all works adjacent to the Ballyogan stream will be carried out in accordance with Inland Fisheries Ireland (IFI), "Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters" (IFI, 2016). Contact will be made with IFI to ensure the works comply with the provisions of the Fisheries Act and Habitats Regulations, and in accordance with any detailed operational and construction requirements issued by IFI. A specific method statement for any stream works will be sent to IFI for consideration, allowing sufficient time for a response, in advance of any works commencing. This I consider satisfies the matters raised in the IFI report.
- 7.9.17. The appeal site is not within or adjacent to any area that has been designated for nature conservation at a national or international level. There are no examples of



habitats listed on annex 1 of the Habitats Directive or records of rare or protected plants. Potential impacts likely to occur during the construction phase in the absence of mitigation are the removal of habitats, direct mortality of species during site clearance, disturbance to protected species during lands clearance including badgers and fish and other aquatic species, pollution of water courses through the ingress of silt, oils and other toxic substances and the spread of invasive species such as Japanese Knotweed which is present on the site.

7.9.18. With the implementation of the recommended mitigation measures the ecological impacts by this proposed development will be largely neutral. Following mitigation no significant residual impacts are envisaged. I have considered the material set out in the EIA in relation to biodiversity. I am satisfied that impacts identified would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on biodiversity.

#### **7.10. Parks and Landscaping**

7.10.1. The Parks Department Planning Report requested additional information on landscape. A detailed summary of the FI request is set out in section 3.2.2. of this report above. The report recommends requesting Further Information in relation to matters pertaining to landscape master plans, location of engineering services and utilities, tree root protection areas, play spaces, confirmation of topographic levels of flood risk, details to ensure potential flood risk to open space is eliminated to avoid any safety risk, alternative design layout for play on the north east in Area 1, drainage details, proposals for more outdoor exercise gym equipment, provision of site specific 'Way-Finding Strategy' and access to public open space without restriction.

7.10.2. The First party has responded to the matters raised in the FI request. Revised drawings have been submitted. The levels of the neighbourhood park respond to the flood capacity requirements of the stream as identified on the FRA Report. Relative levels for flood scenarios in line with the report have been incorporated into the sections for reference to and illustrate the park changes from recreation to flood mitigation during storm events. Areas adjacent to the Ballyogan Stream have been

sculpted to provide public access to the water margins. A progressive level change minimises sudden drops and provides amenity while allowing for flood migration. Suitable crossing points have been included to allow for safe and compliant movement across the Park. This is in keeping with the flood strategy incorporated into the previously permitted scheme on the subject site. Additional guarding could be incorporated if required.

7.10.3. The northeast of Area 1 will incorporate a maintained meadow, meaning at certain times of the year it is available as a grass open space. Regular cutting, as part of the maintenance regime, can allow for more intensified use of the areas as an open play area. The position of the paths can be adjusted if necessary should the Board consider this necessary and the applicant is willing to accept a condition requiring the agreement of the exact path locations in this area to be agreed with the PA prior to the construction of development. This area is part of the flood strategy and at peak times will need to accommodate flooding. A climbing feature has been incorporated into the open space area.

7.10.4. The first party submit that public access will be maintained and that a wayfinding strategy could appropriately be agreed by way of compliance. Details of the access, materials and finishes relating to same will be developed at the next design stage and the applicant is willing to comply with a condition requiring agreement of these details with the Planning Authority.

7.10.5. I consider that the response to the matters raised is satisfactory and that the said issues could be satisfactorily dealt with by way of condition and compliance, should permission be forthcoming. In this regard I consider it would be unreasonable to refuse the development on grounds of landscaping and parks.

## **7.11. Other Matters**

### **Public Lighting**

7.11.1. The PA requested FI with respect to public lighting, see section 3.2.2 of this report above for full details.

7.11.2. The PA response notes that the public lighting report dated 09/04/2022, it is submitted that 'no additional information was provided for the lighting design and if

this development is being moved forward then the information previously asked for will be required before acceptance by public lighting is possible.'

- 7.11.3. I note for the attention of the Board that a 'Site Lighting Report', dated 9<sup>th</sup> March 2022, has been submitted with the first party appeal.
- 7.11.4. The report sets out 'Illumination Levels (Lux) for Carrickmines (Lighting Reality), the illumination throughout the development has an average of 5 lux for pedestrian pathways and 10 lux for carpark spaces and 10 lux maintained in cycle pathways. It is submitted that the illumination throughout the development roadways meets the lighting design requirements of P3 and P4 lighting classes. The proposed development luminaires and lighting design ensures that there is no negative impact of lighting on neighbourhood habitat.
- 7.11.5. The first party appeal sets out that the final luminaire locations and specifications shall be installed to ensure that there is a lux level of 0 within 5m of the site boundary. Whilst keeping the light spill to a minimum the required lux levels throughout the site will be maintained. Reduced light spill is adhered to while ensuring lux level requirements are maintained throughout. Regard is had to measures set out to reduce the negative impact of lighting on neighbourhood habitat.
- 7.11.6. I consider that the information contained within the revised report is acceptable and responds in detail to the concerns raised by the PA. Should permission be forthcoming from the Board I recommend that a condition be attached which requires that public lighting proposals be agreed in writing with the PA prior to commencement of development.

### **Development Contribution**

- 7.11.7. The proposed development is subject to the Development Contribution Scheme under Section 48 of the Act as set out within the 2016-2022 Development Contribution Scheme which is currently under review. It is updated with effect from 1st January 2023 in accordance with the SCSi Tender Price Index.
- 7.11.8. It is noted that the extant permission on the subject site (under Reg. Ref: D18A/0257 and ABP Ref.: 304396-19) included a condition relating to Development Contributions (condition 23) which set out the applicable section 48 contribution for roads infrastructure. This condition provided that the "expenditure incurred by the

developer in the construction of the Ballyogan Link Road forming part of the development, which is a Six Year Road Objective of the Dun Laoghaire Rathdown Development Plan shall be offset against the contribution amount".

7.11.9. The first party ask that having regard to the inclusion of the Ballyogan Link Road within the current application and application site, and the fact that this remains a 6 year roads objective of the Development Plan, that a similar offset arrangement should be applied to the current application in line with this direct precedent from An Bord Pleanala.

7.11.10. I concur with section 14.5 of the previous Inspectors Report (ABP 304396 -19) which considers that this offset is acceptable. Accordingly in this case it is recommended the cost of the delivery of this link road be off set against the Section 48 charges, should permission be forthcoming.

## 7.12. **Appropriate Assessment**

7.12.1. The application is accompanied by a Screening Report for Appropriate Assessment (December 2021) and a further Screening Report for Appropriate Assessment (March 2022) was submitted with the appeal.

### 7.12.2. **Project Description and Site Characteristics**

7.12.3. The site location and proposed development are as described in Sections 1 and 2 above. The main phases of the project include:

- Site clearance and preparation.
- A construction phase using standard building materials.
- Construction will include a new surface water drainage infrastructure and connection to electricity and wastewater networks.
- The reprofiling of the land surrounding the Ballyogan stream and the regrading of parts of the stream channel.
- An operation phase whereby the buildings will be occupied.
- A landscaping phase which will include the creation of an urban park along the banks for the stream, retaining the floodplain at the site, with the provision of several footbridge pedestrian crossings.

- 7.12.4. The scale of the development dictates that the development be delivered in a phased manner. The residential blocks and a proportion of the retail component is to be delivered under Phase 1. The commercial offices are to be delivered under Phase 2 with remaining retail to be provided in Phase 3 & 4. It is expected that the project be delivered in a timeline ranging from 3 to 7 years.
- 7.12.5. The site is currently classified as a greenfield/brownfield site. There are a number of watercourses that run through the site. The Carrickmines / Shanganagh River runs through the north eastern section of the site. This is a short water course which rises in the Dublin Mountains to the west. It is heavily modified as it passes through the city. It is stated that it joins the Shanganagh Stream and together they discharge into Killiney Bay at Ballybrack c 4.5km from the site and at a point that is not within any Natura 2000 sites.
- 7.12.6. The Ballyogan Stream traverses the north-western section of the proposed development site and flows from the west to the east. It is approximately 1m wide at its maximum and is culverted immediately before it enters the site and again as it leaves the site where it flows under the Ballyogan Road and the M50 motorway. It is stated that the Ballyogan Stream in turn outfalls to the Carrickmines River which outfalls to the Irish Sea at Ballybrack via Loughlinstown River c 4.5km from the site and at a point that is not within any Natura 2000 sites.
- 7.12.7. The appeal lands are surrounded by roads and other artificial land uses including commercial and residential development, the M50 and the LUAS line.

#### **Natura 2000 Sites, Qualifying Interests and Conservation Objectives**

- 7.12.8. The site is not located within or directly adjacent to any Natura 2000 site.
- 7.12.9. The Screening Report states that foul wastewater from the proposed development will be sent to the wastewater treatment plant at Shanganagh in Dublin. The point at which the discharge from the Shanganagh wastewater treatment plant enters the sea is not within any Natura 2000 sites. There is sufficient capacity in the Shanganagh Bray wastewater treatment plant to provide for the predicted future growth of this part of the city. Emissions from the plant are currently in compliance with the Urban Wastewater Treatment Directive.

7.12.10. Ten SACs and five SPAs were identified within a 15km radius of the Site. The site name, corresponding code and qualifying interests are detailed in Table 4 of the AA Screening report. The site name, corresponding code and qualifying interests are detailed in **Table 5** below.

**Table 5**

Site code	Site name	Qualifying interests	Distance to site
Special Areas of Conservation (SAC's)			
000725	Knocksink Woods SAC	- [7220] Petrifying Springs* - [91A0] Old Oak Woodlands - [91E0] Alluvial Forests*	4.6 km South
000713	Ballyman Glen SAC	[7220] Petrifying Springs' [7230] Alkaline Fens	4.9 km South
000210	South Dublin Bay SAC	[1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand. [2110] Embryonic shifting dunes	4.9 km North
003000	Rockbill to Dalkey Island SAC	- [1170] Reefs [1351] Harbour Porpoise ( <i>Phocoena phocoena</i> )	5.9km East
002122	Wicklow Mountains SAC	[3110] Oligotrophic Waters containing very few minerals. [3130] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3160] Dystrophic Lakes - [4010] Wet Heath - [4030] Dry Heath [4060] Alpine and Subalpine	6 km South

		Heaths [6130] Calaminarian Grassland [6230] Species-rich Nardus Grassland* [7130] Blanket Bogs (Active)* [8110] Siliceous Scree [8210] Calcareous Rocky Slopes [8220] Siliceous Rocky Slopes - [91A0] Old Oak Woodlands [1355] Otter ( <i>Lutra lutra</i> )	
000714	Bray Head SAC	[1230] Vegetated Sea Cliffs - [4030] Dry Heath	8.5 km South
000206	North Dublin Bay SAC	(1140) Tidal Mudflats and Sandflats [1210] Annual Vegetation of Drift Lines [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2110] Embryonic Shifting Dunes [2120] Marram Dunes (White Dunes) [2130] Fixed Dunes (Grey Dunes) * [2190] Humid Dune Slacks [1395] Petalwort { <i>Petalophyllum ralfsii</i> }	10.3 North
001209	Glenasmole Valley SAC	[6210] Orchid-rich Calcareous Grassland* [6410] Molinia Meadows [7220] Petrifying Springs*	11.3 km East

000719	Glen of the Downs SAC	[91A0] Old sessile oak woods with Ilex and Blechnum in the British Isles	12.5 km South
000202		Howth Head SAC [1230] Vegetated Sea Cliffs - [4030] Dry Heath	13.6km North-east
Special Protection Areas (SPA's)			
004024	South Dublin Bay and River Tolka Estuary SPA	[A046] Light-bellied Brent Goose { <i>Branta bernicla hrota</i> ) (wintering) [A130] Oystercatcher ( <i>Haematopus ostralegus</i> ) [wintering] [A137] Ringed Plover ( <i>Charadrius hiaticula</i> ) [wintering] [A141] Grey Plover { <i>Pluvialis squatarola</i> ) [wintering] [A143] Knot { <i>Calidris canutus</i> ) [wintering] [A144] Sanderling { <i>Calidris alba</i> ) [wintering] [A149] Dunlin { <i>Calidris alpina</i> ) [wintering] [A157] Bar-tailed Godwit { <i>Limosa lapponica</i> ) [wintering] [A162] Redshank { <i>Tringa totanus</i> ) [wintering] [A179] Black-headed Gull { <i>Chroicocephalus ridibundus</i> ) [wintering] [A192] Roseate Tern { <i>Sterna dougallii</i> ) [passage] [A193] Common Tern { <i>Sterna hirundo</i> ) [breeding] [passage] [A194] Arctic Tern { <i>Sterna paradisaea</i> ) [breeding] [passage] [A999] Wetland and Waterbirds	4.9 km North



004040	Wicklow Mountains SPA	[A098] Merlin ( <i>Falco columbarius</i> ) [breeding] [A103] Peregrine ( <i>Falco peregrinus</i> ) [breeding]	6.1 km South-west
004172	Dalkey Islands SPA	[A192] Roseate Tern ( <i>Sterna dougallii</i> ) [breeding [passage] [A193] Common Tern ( <i>Sterna hirundo</i> ) [breeding (passage] [A194] Arctic Tern ( <i>Sterna paradisaea</i> ) [breeding [passage]	6.2 km East
004006	North Bull Island SPA	[A046] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [wintering] [A048] Shelduck ( <i>Tadorna tadorna</i> ) [wintering] [A052] Teal ( <i>Anas crecca</i> ) [wintering] [A054] Pintail ( <i>Anas acuta</i> ) [wintering] [A056] Shoveler ( <i>Anas clypeata</i> ) [wintering] [A130] Oystercatcher ( <i>Haematopus ostralegus</i> ) [wintering] [A140] Golden Plover ( <i>Pluvialis apricaria</i> ) [wintering] [A141] Grey Plover ( <i>Pluvialis squatarola</i> ) [wintering] [A143] Knot ( <i>Calidris canutus</i> ) [wintering] [A144] Sanderling ( <i>Calidris alba</i> ) [wintering] [A149] Dunlin ( <i>Calidris alpina</i> ) [wintering] [A156] Black-tailed Godwit ( <i>Limosa limosa</i> ) [wintering] [A157] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [wintering] [A160] Curlew	10.3km North

		{Numenius arquata} [wintering] [A162] Redshank {Tringa totanus} [wintering] [A169] Turnstone (Arenaria interpres) [wintering] [A179] Black-headed Gull (Chroicocephalus ridibundus) [wintering] [A999] Wetland and Waterbirds	
004113	Howth Head Coast SPA	[A188] Kittiwake (Rissa tridactyla) [breeding]	14.6km North-east

7.12.11. Of the Natura sites within 15 Km precautionary ZOI, it was deemed, a weak indirect hydrological connection exists between the Rockabill to Dalkey Island SAC 5.9 Km to the east via the receiving surface water network, which drains to the Ballyogan / Carrickmines Stream and outflows at Killiney Bay ca.5.5 km downstream from the site and ca. 1.5km west of the SAC itself (EPA, 2021). Although unlikely to be significant, there is the potential for construction related contaminants to enter the receiving drainage network during the Construction Phase, and potentially reach the SAC via the Ballyogan / Carrickmines Stream.

7.12.12. As set out above both the Carrickmines Stream and Ballyogan Stream discharge to the Irish Sea at Ballybrack via Loughlinstown River c 4.5km from the site and at a point that is not within any Natura 2000 sites. The nearest Natura Site from this discharge point and of most relevance is the Rockabill to Dalkey Island SAC (003000). Detailed conservation objectives for this site are available on the NPWS website and may be summarised as follows:

**Table 6**

<b>Site Name and Site Code</b>	<b>Conservation Objectives and Qualifying Interests (Habitats and Species)</b>	<b>Location / distance to European site and Potential Pathways</b>
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Rockabill to Dalkey Island SAC (003000)	<p><b>Conservation Objectives</b></p> Version 1.0, 07 May 2013 To maintain the favourable conservation condition of reefs and harbour porpoise, which is defined by a list of attributes and targets. <p><b>Qualifying interests</b></p> Reefs Phocoena phocoena (Harbour Porpoise)	C5.9km to the east of the appeal site
		Hydrological

### Assessment of Likely Effects

7.12.13. As the site is not within a designated site no direct impacts will arise.

7.12.14. In terms of indirect effects the following elements of the proposed development were assessed for their potential to cause likely significant effects:

#### Construction Phase

- Surface water run-off containing silt, sediments and/or other pollutants into the receiving drainage network.
- Waste Generation during the construction phase comprising soils, construction, and demolition wastes.
- Increased noise, dust and/or vibrations as a result of construction activity.
- Increased dust and air emissions from construction traffic.
- Increased lighting in the vicinity as a result of construction activity.

#### Operational Phase

- Proposed treated surface water discharge from the Proposed Development to the receiving drainage network.

- Foul water from the proposed development leading to increased loading on Shanganagh wastewater treatment plant.
- Flooding events at the site of the proposed development.
- Increased lighting in the vicinity emitted from the proposed development.
- Increased human presence in the vicinity as a result of the proposed development.

7.12.15. The potential for likely significant effects resulting was determined based on a range of key indicators (as per EC, 2001), including:

- Habitat loss or alteration.
- Habitat/species fragmentation.
- Disturbance and/or displacement of species.
- Changes in population density.
- Changes in water quality and resource.

7.12.16. The project is not located within any European Site and therefore there will be no loss or alteration of habitat as a result of the Proposed Development.

7.12.17. The potential for surface waters generated at the site to reach Rockabill to Dalkey Island SAC (Or any other European Site) and cause significant effects during the Construction and/or Operational Phases is deemed negligible due to the following:

- The potential for dilution and mixing in the receiving drainage network, the Ballyogan Stream, Carrickmines Stream, and Killiney Bay itself.
- The proposed development will have no additional stormwater run-off compared to the current surface water discharge from the site during a stormwater event.
- A Hydrological Risk Assessment (HRA) has been prepared by AWN Consulting (2021) which concludes that a range of construction related pollution sources e.g., sediment, fuel etc., do not have the capacity to enter the receiving drainage network and cause significant reductions in water quality in any part of Killiney Bay.

7.12.18. Foul waters from the Proposed Development will discharge off site to separate existing foul and surface water systems, eventually being treated at Shanganagh WWTP prior to outflow to Killiney Bay. Therefore, there is an indirect hydrological link between the Site and Rockabill to Dalkey Island SAC via discharges from the above WWTP during the Operational Phase.

7.12.19. The potential for foul waters generated at the Site of the Proposed Development to reach and Rockabill to Dalkey Island SAC and cause significant effects during the Operational Phase is deemed negligible due to the following:

- The Shanganagh-Bray WWTP was identified by the EPA as being fully compliant with the Emission Limit Values (ELVs) as set out in the Wastewater Discharge Licence, according to the Strategic Environmental Assessment (SEA) carried out for the DLR County Development Plan 2022-2028 by CAAS Ltd. (2021)
- The HRA prepared by AWN Consulting (2021) concludes that foul waters produced by the Operational Phase of the Proposed Development do not have the capacity to cause significant reductions in water quality in any part of Killiney Bay.

7.12.20. It is noted that a suite of SUDS measures have been incorporated into the proposed design as per the requirements of the Greater Dublin Regional Code of Practice for Drainage Works and the DLR County Development Plan. These measures have been included to contribute to both the improvement of water quality in receiving waterbodies and the easing of pressures on existing drainage networks and will further reduce any risk of surface water related pollution of the SAC will occur as a result of the operation of the Proposed Development. The AA Screening report states that these measures are not relied upon in any way in this determination of 'no significant impact relating to this or any other European Site'.

7.12.21. During the operational stages of the development surface water attenuation will be provided on site. The site is fully serviced.

7.12.22. In terms of cumulative impacts I have regard to the location of the site on serviced and zoned lands. As set out in the Screening Reports there are no projects which

can act in combination with this development which can give rise to significant effects to Natura 2000 areas within the zone of influence.

#### 7.12.23. **Screening Statement and Conclusions**

7.12.24. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Rockabill to Dalkey Island SAC (Site Code 003000) or any other European site, in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not required

## 8.0 **Environmental Impact Assessment Report (EIAR)**

### 8.1. **Introduction**

- 8.1.1. This section of the report comprises an environmental impact assessment of the proposed development. A number of the matters to be considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant sections of the said assessment.
- 8.1.2. Both the 2014 amended EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 are applicable.
- 8.1.3. In terms of the classes of development in Schedule 5 of the Planning and Development Regulations 2001, as amended, for which an EIAR is required, the site subject of this appeal, at some 10.4 hectares, exceeds the threshold of 10 hectares for development within the built-up area, and requires mandatory EIA as per Class I0(b) (iv).
- 8.1.4. An EIAR was submitted with the application which was amended by way of additional information submitted to the Board, with the First Party Appeal, in response to the request for further information from divisions of the PA with respect to Biodiversity, Water, Landscape and Visual Impact and Summary of EIAR

mitigation and monitoring measures. Note F.I. was not requested by the PA, the information is in response to departmental reports.

- 8.1.5. It is submitted by the First Party that these updates have been made in order to bring the information before the Board up to date, and to reflect additional surveys undertaken in response to the points raised by the DLR Biodiversity Officer. While the EIAR submitted with the planning application was adequate and these updates were not required in order for the Board to carry out an Environmental Impact Assessment of the proposed development, the updates have been undertaken and submitted in order to address the points raised by the Planning Authority. The updates have been included as updated chapters of the EIAR as opposed to a stand-alone report.
- 8.1.6. In light of these updates to the EIAR chapters submitted herewith, it would be appropriate for the Board to include in any grant of permission for the proposed development a statement in accordance with the provisions of section 34(10)(c)(ii) of the Planning and Development Act 2000, as amended, to confirm that the Board “is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision”.
- 8.1.7. It is open to the Board to put these updates out for public consultation if deemed necessary as per Section 132(1) of the Planning and Development Acts 2000-2006. However, given my recommendation to refuse planning permission on the fundamental ground of noncompliance with ‘E’ zoning objective and materially contravening the 2022 – 2028 DLRDCCCDP I do not consider this necessary.

#### Content and Structure of EIAR

- 8.1.8. The EIAR, as amended, consists of 2 volumes, grouped as follows:
- EIAR Report & Appendices
  - Non-Technical Summary
- 8.1.9. In accordance with Article 5 and Annex IV of the EU Directive, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features. It identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following environmental factors: (a) population and human health; (b) biodiversity, with particular attention to

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 and it considers the interaction between the factors referred to in points (a) to (d). It provides an adequate description of forecasting methods and evidence used to identify and assess the significant effects on the environment. It also provides a description of measures envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects. The mitigation measures are presented in each chapter and are summarised in Chapter 15. Where proposed, monitoring arrangements are also outlined. No difficulties were encountered in compiling the required information although the restrictions arising from the Covid 19 pandemic and the carrying out of traffic surveys are noted.

- 8.1.10. I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. I am also satisfied that the information contained in the EIAR complies with the provisions of Articles 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU and Article 94 of the Planning and Development Regulations 2001, as amended.
- 8.1.11. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. I note the qualifications and expertise of the persons involved in the preparation of the EIAR set out at the start of each section.
- 8.1.12. I am satisfied that the information provided in the EIAR is sufficiently up to date and is adequate for the purposes of the environmental impact assessment to be undertaken.
- 8.1.13. I have carried out an examination of the information presented by the applicant, including the EIAR, updated reports submitted with the first party appeal and the report of the planning authority. A summary of the submissions made have been set out in section 3.0 of this report.
- 8.1.14. The main issues raised specific to EIA can be summarised as follows:
- Impacts on Biodiversity.
  - Water and Drainage Impacts



- Landscape and Visual Impact
- Summary of EIAR mitigation and monitoring measures.

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

## **8.2. Consultations**

8.2.1. Details of the consultations entered into by the applicant as part of the preparation of the project are set out in section 1.6 & 1.9 of the EIAR. Submissions received during the course of the planning authority's assessment of the application, including submissions from prescribed bodies, are summarised in section 3 above.

8.2.2. I consider that the requirements in terms of consultation have been adequately met by the applicant.

## **8.3. Vulnerability to Risk of Major Accidents and/or Disaster**

8.3.1. The EIAR addresses this issue in Chapter 3 – 'Population and Human Health'.

8.3.2. Potential risks (flooding, Hydrological risk, major accidents or disasters, invasive species, ecological contamination, noise, bird collisions, risk to bats, health and safety) during the construction phase will be managed through the Construction and Demolition Management Plan (CEMP).

8.3.3. The appeal site is not within the consultation zone of a SEVESO Site as defined by the Health and Safety Authority. The site is not connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO and so there is no potential effects from this source.

8.3.4. It is considered that having regard to the nature and scale of the development itself, the proposed development site does not present risks of major accidents or disasters, either caused by the scheme itself or from external man made or natural disasters. I am satisfied that this issue has been addressed satisfactorily in the EIAR.

## 8.4. Alternatives

8.4.1. 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;”*

8.4.2. 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 electing the chosen option, including a comparison of the environmental effects.”*

8.4.3. No alternative sites were considered on the basis that the site is suitable for the nature of the development proposed due to its zoning (E and F zones) with SLO for neighbourhood centre, location in proximity to high quality transport infrastructure and range of social infrastructure.

8.4.4. The alternatives assessed include the ‘do nothing’ scenario and the scheme previously permitted on the site under planning reference ABP Ref: 304396-19 / Reg. Ref: D18A/0257. The other alternatives presented would appear to be, in effect, iterations of the scheme which were presented to the PA during pre-application consultations from which modifications resulted. Consideration is also given to alternative processes and mitigation measures.

8.4.5. Having regard to the Guidelines for carrying out Environmental Impact Assessment (2018) which states that the type of alternatives will depend on the nature of the project proposed and the characteristics of the receiving environment I consider that the requirements of the Directive in terms of consideration of reasonable alternatives have been discharged.

## 8.5. Population and Human Health

- 8.5.1. As would be expected the likely effects of the proposed development on human beings and health are addressed under several of the headings of this environmental impact assessment and, as such, should be considered as a whole. Of particular relevance are issues arising from noise, traffic, air quality and visual impact. Chapter 3 deals with population and human health. Chapter 10 of the EIAR deals with noise and vibration.

### *Receiving Environment*

- 8.5.2. I refer the Board to section 2 of this report which gives a site location and description. In summary, the site is located at Quadrant 3, The Park Carrickmines, Dublin 18 and is surrounded by a road network and within 100m of Ballyogan Luas Stop. The north west and south west quadrants are developed and contain two number retail parks and a mixed use commercial building with ground floor retail and restaurant uses and three floors of office above.
- 8.5.3. In a 'Do Nothing' scenario the site would be an underutilisation of the site from a sustainable planning and development perspective, particularly considering the location of the lands adjacent to high quality public transport, and within an area which is identified as a suitable location for employment, neighbourhood centre, and residential development. This would represent a sub-optimal use of zoned and serviced land which is identified for development.

### *Predicted Effects*

- 8.5.4. Positive impacts in terms of the direct effects on job creation during the construction and operational phases are expected. The proposed development is estimate to accommodate at least 4,000 jobs as set out within the accompanying economics report prepared by EY.
- 8.5.5. Positive impacts are anticipated arising from the redevelopment of the site and provision of residential, commercial, office, leisure and local amenities. The operational phase of the proposed development has the potential to lead to positive impacts on population and human health as a result of the significant quantity of open space and recreational provision including a greenway, playgrounds and the linear park provided within the scheme will help provide a high quality residential

environment with provision for exercise and play, and will be a valuable amenity resource to surrounding residential areas. The proposed development incorporates design principles such as permeability, shared surfaces / homezones and greenways which prioritise walking and cycling and therefore has the potential to positively impact on population and human health.

- 8.5.6. Indirect positive impacts identified include the improvement of the economic and social prosperity of the surrounding area and commercial linkages with existing business/retail industry throughout the city. It would also contribute to the social and cultural growth of the city centre.
- 8.5.7. During the construction phase of the project there will be short term impacts on some of the nearby properties due to noise emissions from construction plant items. Mobile plant, and truck movements to and from the site. Vibration impacts and dust associated with surface breaking activities and piling. Air quality is dealt with in detail within the Air Quality and Climate chapter of the EIAR (Chapter 9). Noise and Vibration is dealt with under the Noise and Vibration chapter of the EIAR (Chapter 10). The major dust generating activities are: demolition, earthworks and construction. Each activity is assessed for potential impact. The major noise generating activities for construction noise are identified including demolition and site clearance, basement excavation including piling works and construction traffic. Each activity is assessed for potential impact. Vibration is also addressed. The main potential source of vibration during construction is associated with piling and ground breaking activities.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 8.5.8. To minimise significant nuisance arising from dust and noise a Preliminary Construction Traffic Management Plan and an Outline Construction and Demolition Management Plan have been formulated. These plans include site management, demolition and clearance works, traffic management and dust minimisation (as outlined in Section 9.7 and Appendix 9.2 of the EIAR). In terms of construction noise and vibration Best Practicable Means are to be employed with the measures to be used detailed.

- 8.5.9. Dust and vibration monitoring are to be undertaken at nearest sensitive receptors. Noise control measures at source, selection of quiet plant, screening and liaison with the public.
- 8.5.10. During the operational phase site compounds will be located away from noise sensitive boundaries within the site constraints. The use of lifting bulky items, dropping and loading of materials within these areas will be restricted to normal working hours. For mobile plant items such as cranes, dump trucks, excavators and loaders, maintaining enclosure panels closed during operation can reduce noise levels over normal operation. Mobile plant will be switched off when not in use and not left idling. Noise from any new plant items will be designed and/or controlled so as not to give rise to any adverse effects at the nearest noise sensitive locations.
- 8.5.11. The likely noise impact of car park activities on the local environment is predicted to be negative, not significant and long term.

*Residual Impacts*

- 8.5.12. The construction phase of the proposed development will primarily consist of site clearance, excavation and construction works, which will be largely confined to the proposed development site. Notwithstanding the implementation of remedial and mitigation measures there will be some minor temporary residual impacts on population (human beings) and human health most likely with respect to nuisance caused by construction activities, predominantly related to noise and traffic as detailed.
- 8.5.13. It is anticipated that subject to the careful implementation of the remedial and mitigation measures proposed throughout this EIA document, and as controlled through the Construction Management Plan, any adverse likely and significant environmental impacts will be avoided. Positive impacts are likely to arise due to an increase in employment and economic activity associated with the construction of the proposed development.
- 8.5.14. The overall predicted likely impact of the construction phase will be short-term and neutral.
- 8.5.15. Positive impacts on population and human health will include health benefits associated with the provision of significant new employment, retail, medical, and

leisure facilities to help meet the needs of existing and future residents of the area, along with modern, well-designed and sustainable housing units, a high-quality environment, public open space and improvements to the public realm which creates a highly permeable layout that encourages walking and cycling, amenity and recreational facilities, including use of public transport.

#### *Population and Human Health – Conclusion*

- 8.5.16. I have considered the application in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

#### **8.6. Biodiversity**

- 8.6.1. Chapter 5 addresses biodiversity. An addendum Chapter 5 report was submitted with the first party appeal. In addition, an AA Screening Report accompanies the application. There is also an overlap with land, soil and water which are addressed below. I recommend that the relevant sections be read in conjunction with each other.

#### *Receiving Environment*

- 8.7. The site forms the north-east quadrant of the larger area known as “The Park”, which comprises of a mix of commercial, office and retail warehousing uses. The Park, Carrickmines comprises of four quadrants – the south western and north western quadrant comprises of a retail park. Commercial office buildings are located within the south east quadrant. The proposed development will be located in the north eastern quadrant. The north-east quadrant, which is the subject of this application, is primarily undeveloped (with the exception for the link road delivered pursuant to the extant permission on site) and is bounded by hoarding and fencing on all sides. The EIAR sets out details regarding the existing environment in terms of flora and fauna. Bird, Bat and habitat surveys were undertaken.
- 8.8. The site was surveyed on the 24th of November 2021 and the 15th March 2022 and presented a mix of semi natural and anthropogenic habitats, sloping down from the

southern section to the north. The majority of the vegetation at the site is comprised of rough grassland, scrub and recolonising bare ground habitats, mostly covering the eastern and northern/central portions of the site. It is submitted that these habitats are the remains of previous clearance works at the site in the last number of years, as evidenced by a review of satellite imagery for the area, with scrub gradually reclaiming parts of the east of the Site. The western and southern sections are highly disturbed in nature, comprising the construction site and compound for the Ballyogan Link-road (constructed under the extant permission on site). The Ballogan Stream flows through the site from west to north-east. The following habitats were identified within the redline boundary of the site:

- Built land
- Spoil and bare ground
- Built land/bare ground mosaic
- Recolonising bare ground
- Amenity grassland
- Ornamental scrub
- Dry meadows
- Dry meadows/ Scrub mosaic
- Scrub
- Wet grassland
- Hedgerows
- Treelines
- Drainage ditches
- Eroding river

8.8.1. The site is not of significant ecological value.

8.8.2. Bat activity within the site is recorded as low. Two species of bat recorded within the vicinity of the site. No roosts present although bats likely commute and forage through the site. Overall, roost potential is very low within the site.

- 8.8.3. Three Red-listed and three Amber listed species noted on site. Relatively common species recorded at the Site. Site provides nesting/foraging habitat in meadow, scrub and hedgerow.
- 8.8.4. The site is not deemed to be located in a sensitive area in terms of bird flight paths i.e., it is not located along the coast, or near any Special Protected Areas (SPAs) designated for wetland bird populations and is in itself not deemed to represent suitable ex-situ feeding/roosting habitat for any such species.
- 8.8.5. The site presents an unsuitable habitat for wintering Bird species (e.g. waterfowl, waders etc. No loss of ex-situ habitat will occur as a result of the proposed development.
- 8.8.6. No active badger setts recorded on site, although previous sett activity in the past. Low level of badger activity recorded in most recent surveys, however, access to site remains open, one artificial sett is present with another to follow as part of Link-road development (with another yet to be constructed), and large park to be created. Thus, badger activity may increase in the future.
- 8.8.7. Vegetated habitats provide some cover and foraging habitat for small mammals. Little suitable otter habitat on site. Although otter are known to utilise upstream and downstream stretches of the Ballyogan/Carrickmines watercourses.
- 8.8.8. The stretch of the Ballyogan Stream within the site has little fisheries potential due to pipe culverting upstream and culvert grate in the north of the site. However, IFI has previously noted Salmonid usage of watercourses downstream of the Ballyogan Stream.
- 8.8.9. In a 'Do Nothing' scenario there will be no change to biodiversity.

*Predicted Effects*

- 8.8.10. The development will result in the loss or transformation of the majority of habitats currently present on site. These habitats are largely of negligible ecological value or local importance (Lower value); comprising either anthropogenic/highly disturbed habitats associated with the ongoing or previous construction at the site; or relatively recent vegetation associated with the recolonising and regrowth of the site after previous development/clearances in the past e.g., bramble scrub, recolonising



ground and rank grassland areas. One habitat was identified as a Key Ecological Receptor (KER) at the site: the Ballyogan Stream.

8.8.11. There is potential for significant sedimentation of the stream associated with runoff from construction.

8.8.12. There is the potential for temporary noise disturbance, loss of habitat, displacement during the construction phase of birds and bats at a local scale in the absence of suitable mitigation.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

8.8.13. The measures to be employed to protect ground and surface water which are detailed under the heading 'water' are relevant in terms of biodiversity. To avoid undue repetition, I recommend that these sections be read in tandem.

8.8.14. To reduce the potential for contaminated waters containing silt, fuel, cementitious materials etc., to enter the receiving surface water network during construction, a suite of mitigation measures will be put in place and will be included in the CEMP, along with all other relevant measures recommended to protect environmental sensitivities.

8.8.15. All works adjacent to the Ballyogan stream will be carried out in accordance with Inland Fisheries Ireland (IFI), "Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters" (IFI, 2016). A specific method statement for any stream works will be sent to IFI for consideration.

8.8.16. To reduce the potential for contaminated waters containing silt, fuel, cementitious materials etc., to enter the receiving surface water network during the Construction Phase of the Proposed Development, a suite of mitigation measures will be put in place and will be included in the CEMP prepared by the contractor, along with all other relevant measures recommended to protect environmental sensitivities during the Proposed Works.

8.8.17. The Construction and Demolition Management Plan which is included with the application sets out the procedures, standards, work practices and management responsibilities of the appointed contractor to address potential negative environmental effects that may arise during construction.

- 8.8.18. Significant avoidance, remedial and mitigation measures will be put in place to prevent the release of hydrocarbons, polluting chemicals, sediment/silt and contaminated waters into the receiving surface water network (set out in the CEMP).
- 8.8.19. Measures to control dust and noise will be undertaken. Seasonal restrictions on vegetation removal. Invasive flora management and disposal measures will be carried out.
- 8.8.20. Greenway/parkland lighting shall dim at night by way of motion sensor lighting. This shall keep lighting within the proposed wildlife corridor, culvert & river to a minimum while these areas are unoccupied during the hours of darkness, thus maintaining the natural ecology of the site wherever possible.

*Residual Impacts*

- 8.8.21. None envisaged

*Biodiversity – Conclusion*

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

**8.9. Land and Soil**

- 8.9.1. Chapter 6 of the EIAR assesses the potential impact on land and soil. The Construction Management Plan, the Construction and Demolition Waste Management Plan, and the Operational Waste Management Plan, which are included as standalone reports, also provide a more detailed assessment of the development.

*Receiving Environment*

- 8.9.2. The site measuring circa 10.4 hectares consists of both greenfield and brownfield conditions Existing site levels vary by approx 8.5m over the footprint of the main development, from circa +84.1 m at the south west to +75.5m along the northern extent. The valley levels drop further to +72.5m at the lowest point of the existing stream/culvert interface with the Ballyogan Rd.

- 8.9.3. In the brownfield part of the site geotechnical conditions consist of variable depth of made ground up to 1.5m deep described in the site investigation report as “brown sandy gravelly clay with occasional rootlets, timber, concrete and cobbles”. It is underlain by cohesive deposits described as “brown mottled grey sandy gravelly CLAY with occasional cobbles and boulders”.
- 8.9.4. The Ballyogan Stream transverses from west to north through the site and is a significant feature both in its ecological, bio diversity, amenity and flood zone features. This is to be realigned for a short distance to facilitate the construction of the Ballyogan link road, with a bridge structure over the river to accommodate both flooding considerations and incorporation of pedestrian walkways.
- 8.9.5. There was no evidence of significant contamination in soil samples.
- 8.9.6. In a ‘Do Nothing’ scenario there will be no change to land and soil within the site.

*Predicted Effects*

- 8.9.7. There is a potential for the dust/surface water run off accumulations to the surrounding area, on the adjacent roadways or in the adjacent existing drains.
- 8.9.8. Increase in traffic levels due to construction vehicles and deliveries may lead to congestion and more rapid wearing of local road surfaces in combination with other developments which will be under construction in the vicinity at the same time as the proposed development
- 8.9.9. Surface water runoff from the excavated areas may result in discharges to the Ballyogan Stream.
- 8.9.10. Potential pollution from fuel spillages and escape to ground of silt and/or contaminated surface run-off.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 8.9.11. Mitigation measures will be put in place to manage the construction processes on an ongoing basis.
- 8.9.12. The contractor’s site specific Environmental Management Plan will set out detailed measures to control and monitor site works with site records to demonstrate the adherence to the Plan

### *Residual Impacts*

8.9.13. None anticipated.

### *Land and Soil – Conclusion*

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

## 8.10. **Water**

8.10.1. Chapter 7 of the EIAR addresses water with a Flood Risk Assessment accompanying the application.

### *Receiving Environment*

8.10.2. The development lands are located within the catchment of the Ballyogan Stream and a section of this stream is located within the northern part of the subject site. The surface water runoff on the existing site currently infiltrates to the natural ground and / or discharges excess runoff to the Ballyogan Stream.

8.10.3. In a 'Do Nothing' scenario there would be no change in the current site discharges.

### *Predicted Effects*

8.10.4. The construction period has the potential of pollution of groundwater and water courses by accidental spillages.

8.10.5. There will be an increase in demand for water during the operational phase and increased flow to the foul water system.

8.10.6. There will be an increase in the quantity and rate of discharge of wastewater from the site to the existing public wastewater sewer system.

8.10.7. There will be minor traffic disruption when excavation works, tying in of new drains with existing drains and tying in of new link roads with the existing link roads are being carried out. There may be minor disruption of drainage services during tying in of new drains with the existing wastewater drains. Damage could be caused to existing services during excavation.

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 8.10.8. Compliance with best practice measures detailed in the Construction and Demolition Management Plan.
- 8.10.9. It is proposed to provide attenuation for surface water runoff from surfaced areas on site, prior to discharge to the Ballyogan Stream. This attenuation will be provided within a variety of attenuation systems distributed around the site, comprising primarily 2nr. large attenuation structures within the basement, with the remaining being spread across the developments landscaping and podium build-up as well as filter drains and SuDS tree-pits.
- 8.10.10. The surface water runoff from the hardstanding areas of the development will be restricted to a maximum of 6.8 l/s/ha before discharging to the Ballyogan Stream, as required by the Greater Dublin Strategic Drainage Study, which is equal to the pre-development greenfield runoff rate (QBAR).

*Residual Impacts*

- 8.10.11. No residual impacts are anticipated. There will be a water demand arising from the proposed development.

*Water – Conclusion*

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

## 8.11. **Air and Climate**

Chapter 9 addresses climate in terms of air quality and climate change with the application accompanied by a Building Lifecycle Report and Energy Statement Report.

*Receiving Environment*

- 8.11.1. The proposed development comprises the construction of a new mixed use neighbourhood centre, retail warehouse, commercial, leisure and Build to Rent residential, and residential development on a site of c. 10.4 hectares. The development includes the provision of a park to the north and south of the Ballyogan Stream, a public neighbourhood square in the western portion of the site, pedestrian and cycle routes, car parking (within two basement levels and at surface level), bicycle parking, substations, waste management facilities, access arrangements and service yard, and all associated and ancillary works.
- 8.11.2. Impacts to air quality and climate can occur during both the construction and operational stages of the development. During the construction stage the main source of air quality impacts will be as a result of fugitive dust emissions from site activities. Emissions from construction vehicles and machinery have the potential to impact climate. The primary sources of air and climatic emissions in the operational context are deemed long term and will involve the change in traffic flows or congestion in the local areas which are associated with the development.
- 8.11.3. In a 'Do Nothing' scenario there would be no change in prevailing conditions in terms of air and climate.

*Predicted Effects*

- 8.11.4. There are a number of high sensitivity residential receptors along Ballyogan Road to the north of the site some of which are within 100m of the site boundary. In the absence of mitigation there is the potential for significant, negative, short-term impacts to nearby sensitive receptors as a result of dust emissions from the proposed development.
- 8.11.5. Dust emissions from the construction phase of the proposed development have the potential to impact human health through the release of PM10 and PM2.5 emissions. Significant PM10 emissions can occur within 25 m of the site for a development of this scale. There are a number of high sensitivity receptors bordering the site to the north, however, none of these are within 25m of the site boundary. In the absence of mitigation there is the potential for imperceptible, negative, short-term impacts to human health as a result of the proposed development.
- 8.11.6. There is the potential for a number of greenhouse gas emissions to atmosphere during the construction of the development.

- 8.11.7. The traffic assessment concluded during demolition and construction phase the proposed project will result in a temporary increase in traffic volumes along the construction route. However, these increases will be negligible and temporary in nature.
- 8.11.8. The air quality and climate assessment predicts that impact of the operational traffic associated with proposed development to be imperceptible with respect to the operational phase in the long term.
- 8.11.9. TII guidelines state that pollutant concentrations should be calculated at receptors located adjacent to roads where operational traffic increased by 5% or more. On this basis the traffic associated with the construction and operational phases would have imperceptible effects on air quality (NO<sub>2</sub>, CO<sub>2</sub>, and N<sub>2</sub>O emissions).

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- 8.11.10. A Construction Environmental Management Plan and Dust Minimisation Plan have been drawn up which provides for site management, management and movement of trucks, site clearance and dust control measures.
- 8.11.11. Dust monitoring to be undertaken along the site boundary to nearby sensitive receptors.
- 8.11.12. The buildings will meet and exceed the NZEB (Nearly Zero Energy Buildings) requirements set out in the Part L document.

*Residual Impacts*

- 8.11.13. It is predicted that there will be no significant air quality or climate impacts.

*Air and Climate – Conclusion*

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

## 8.12. Material Assets

8.12.1. Chapter 13 of the EIAR addresses Material Assets.

8.12.2. In a 'Do Nothing' scenario there will be no change to material assets.

### *Receiving Environment*

8.12.3. The site is primarily a Greenfield site, which was previously used for agricultural purposes. The predominant land use on the adjacent lands is retail warehousing and commercial. The wider area contains a significant element of residential development. The area is surrounded by a series of distributor roads including Ballyogan Road, Glenamuck Road, Glenamuck Link Road, which connect to the M50 and the wider area to the west of the M50. The area is also well served by public transport with the Ballyogan Wood Luas stop located in close proximity and Dublin Bus route no. 63 running along Ballyogan Road and Glenamuck Road.

8.12.4. There is an existing 300mm diameter foul sewer located adjacent to the site to the west, in addition to a further 525 mm sewer to the east.

8.12.5. A confirmation of feasibility and statement of design acceptance has been received from Irish Water for the proposed development which confirms, that subject to agreement, the connection of the development to the Irish Water sewer network can be facilitated.

8.12.6. The surface water runoff on the existing site currently infiltrates to the natural ground and / or discharges excess runoff to the Ballyogan Stream.

8.12.7. The site is fully serviced in terms of utilities.

### *Predicted Effects*

8.12.8. There will be an increase in the foul discharge from the proposed development therefore reducing the capacity of the public foul sewer. The public foul sewer, however, does have sufficient spare capacity to cater for the proposed development as per the confirmation of feasibility received from Irish Water. The relevant wastewater treatment plant at Shanganagh also has spare capacity to accommodate the proposed development.

8.12.9. The impact of the operational phase of the proposed development on the public water supply is likely to be to increase the demand on the existing supply.



8.12.10. In the absence of the SUDs measures proposed to be implemented on site, increased impermeable areas would reduce local ground water recharge and potentially increase surface water flow to the Ballyogan Stream.

8.12.11. The impact of the operational phase of the proposed development on the electricity supply network is likely to be to increase the demand on the existing supply.

8.12.12. There will be soil and stones excavated to facilitate construction of the new building foundations, installation of services and basements the proposed development. The volume of material to be excavated has been estimated by the project engineers (OCSC) at c. 190,000m<sup>3</sup>.

8.12.13. The impact of the operational phase of the proposed development on municipal waste disposal will result in an increase in demand.

*Features and measures to avoid prevent, reduce or offset likely significant adverse effects on the environment*

8.12.14. A project specific Construction and Demolition Waste Management Plan has been prepared to ensure waste management and minimisation, reuse, recycling, recovery and disposal of waste material generated during the construction phase.

8.12.15. An Operational Waste Management Plan has been prepared.

8.12.16. A Site Servicing Strategy has been prepared.

***Residual Impacts***

8.12.17. No residual impacts anticipated.

***Material Assets - Conclusion***

8.12.18. The proposed development will have a positive impact on the existing urban environment by creating high a high quality mixed use neighbourhood centre development to cater for the needs of a growing population. Residential units proposed as part of the development will respond to a significant housing need and demand in the locality and the region, while occupying a presently underutilised site at an appropriate location for sustainable development. Traffic movements associated with the proposed development are addressed in the previous chapter of this EIAR.

- 8.12.19. The predicted waste water generation of the proposed development will be adequately accommodated in the local foul sewer network as confirmed in the Confirmation of Feasibility from Irish Water.
- 8.12.20. The proposed development is designed to comply with the provision of SUDS and is therefore unlikely to have any residual impacts in terms of the impact on surface water drainage. While water supply is proposed from an existing water main traversing the site..
- 8.12.21. The proposed development is unlikely to have any significant impact on the local water or electricity supply and the overall impact with respect to these utilities can be described as long-term and neutral.
- 8.12.22. I have considered all of information in relation to material assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on material assets.

### **8.13. Traffic and Transportation**

- 8.13.1. Chapter 12 of the EIAR addresses traffic.

#### *Receiving Environment*

- 8.13.2. The site is located in close proximity to Ballyogan/Stepaside and Glenamuck and Kiltiernan. The character and context of the subject lands has been transformed over the past 15 years from a largely rural area to a more urban environment. This transformation has been facilitated by improvements in public transport and general infrastructure development in the area.
- 8.13.3. The study area has been established based on the likely areas of influences of the development on various travel modes, such as walking, cycling, public transport and vehicular traffic:
- Walking - the focus is on the impact of the development on the urban realm and walking conditions both within the development and on the pedestrian network adjacent to the site including connections across the Ballyogan Road and Enniskerry Road;

- Cycling - the focus is on the impact that the development could have on cycle facilities both within the development and on the road network surrounding the site including connections across the Ballyogan Road and Enniskerry Road;
- Public transport - the focus is on the provision of access to public transport facilities such as bus and Luas. The assessment identifies public transport services and associated infrastructure such as stops such as local bus stops and Ballyogan Wood Luas stop and the impact that traffic congestion could have on public transport service reliability; and
- Vehicular traffic - the focus is on traffic flows both within the development and at several key junctions and road links surrounding the site and the impact that traffic congestion could have on network performance.

8.13.4. In a 'Do Nothing' Scenario there will be no change to the operational performance of the existing junctions on the surrounding road network.

*Predicted Effects*

8.13.5. During demolition and construction phase the proposed project will result in a temporary increase in traffic volumes along the construction route.

8.13.6. Once operational the proposed development will result in changes to traffic flows on several road links within the study area.

8.13.7. The proposed development will bring about changes to the transport network for all modes. The development will result in improvements to the pedestrian and cyclist network in the area. The development will also improve accessibility for the local community by providing a shuttle bus service and shorter walking distance to the LUAS. These will improve social inclusion by allowing people without access to a car to access these important local facilities. The scheme will result in changes to traffic volume in the local network, because of the improved permeability and the reduction in travel journeys and movements.

8.13.8. The traffic and transportation assessment concludes that the proposed development will have an imperceptible to moderate impact on the existing junction surrounding the site. The traffic flows to and from the development at junction 2 and junction 3 are below the 5%. TII threshold normally used to model impact, however as

demonstrated these junctions operate within capacity for opening year and +5 year scenarios.

8.13.9. The provision of the Ballyogan Link Road has a positive and beneficial impact on traffic flows at junction to the south of the M50 particularly Junction 4 where traffic is reduced and redistributed through Ballyogan Link Road.

8.13.10. The two new priority junctions onto Ballyogan Road work well within capacity with minimal impact on the Ballyogan Road. The new left out only junction onto Glenamuck Road equally has no adverse impact on the operation of that road.

8.13.11. The internal junction, existing and proposed all work well within capacity for all years and scenarios modelled

*Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

8.13.12. All construction activities will be managed and directed by a Construction Traffic Management Plan (CTMP). The details of the CTMP will be agreed with the roads department of the Local Authority in advance of construction activities commencing on-site.

8.13.13. A Mobility Management Plan (MMP) has been prepared.

8.13.14. Delivery Service Plan (DSP)

8.13.15. As part of the Travel Plan annual travel surveys will be undertaken.

8.13.16. The development will provide a free local bus service to the surrounding catchment in order to promote sustainable travel and reduce single occupancy car journeys on the road network.

8.13.17. The development will deliver improved access to the Luas at Ballyogan Wood stop via shortened distances from the Luas to the development either via the Ballyogan Link Road and or via new pedestrian and cycle links through the new park.

8.13.18. This reduction in car parking across all uses, residential, office, neighbourhood centre uses is consistent with national, regional policies to encourage active and sustainable travel through car parking restraint.

8.13.19. Introduction of car parking controls across the Park Carrickmines that will reduce any overspill car parking from occurring and should also help to reduce short car

journeys and or encourage the further uptake of active and sustainable travel choices.

#### *Residual Impacts*

- 8.13.20. Once operational the proposed development will result in changes to traffic flows on several road links within the study area. However, these increases are in the range of moderate to slight and not significant.
- 8.13.21. The impact of the proposed development on pedestrians, cyclists and public transport users (buses and Luas) is predicted to be beneficial.
- 8.13.22. The impacts to car parking are defined as moderate and permanent. The operation of the proposed development is not anticipated to result in any significant adverse residual impact.
- 8.13.23. The residual impacts in terms of traffic are considered further in Chapters 9 Air Quality and Chapter 10 Noise and Vibration which are the direct environmental impacts because of increased traffic.

#### *Traffic – Conclusion*

- 8.13.24. I have considered all of information in relation to traffic and transportation I am satisfied that the potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the operation of the local road network.

### **8.14. Landscape and Visual Impact**

- 8.14.1. Chapter 8 addresses landscape and visual Impact.

#### *Receiving Environment*

- 8.14.2. The Park and Quadrant 3 ('Q3') lie within Landscape Character Area 13, a transitional landscape between the extensive suburbs of Greater Dublin and the elevated rural landscape of the Dublin Mountains. The area is well connected via the M50 motorway and LUAS, and major urban developments have brought recent change to The Park at Carrickmines, Sandyford, Leopardstown and Cherrywood.

- 8.14.3. The local landscape character area is considered to have low sensitivity.
- 8.14.4. The site itself is comprised of mainly grassland and invading scrub, as well as a parking areas and areas associated with nearby construction activity. These all have low sensitivity to the proposed development, but the Ballyogan Stream also runs through the site and is moderate sensitivity to the proposed development.
- 8.14.5. The proposed development site (Q3) is part of a much larger site that has already been significantly developed for retail and office use within Q1, Q2 and Q4 at The Park, Carrickmines. Existing buildings, surface car parking and landscaping in Q1, Q2 and Q4 already give The Park a strong presence in the local landscape. Existing buildings broadly range from two to five commercial storeys plus parapet and roof plant. Together with the surface car parking, this is a substantial retail/commercial site that is clearly visible from the M50 adjacent and from nearby housing areas, parts of Ballyogan Road, Glenamuck Road South/North and to a moderate extent in more distant views from the foothills and peaks such as Three Rock in the Dublin Mountains.

*Predicted Effects*

- 8.14.6. There will be some construction phase impacts however these will be temporary and are typical of large construction projects.
- 8.14.7. Principle views of the Q3 site are from close quarters - Ballyogan Road to the north, Glenamuck Road to the south, the link road between the two and from the roundabouts at Junction 15 of the M50, as well as from adjoining parts of The Park at Carrickmines.
- 8.14.8. Occasional glimpses of the site and existing elements of The Park occur from a slightly broader area, with distant elevated views from the Dublin Mountains to the southwest. Key views from these areas, as existing and proposed, are illustrated in a separate booklet of Photomontage Views 1 – 14.
- 8.14.9. Local residents are anticipated to be the most sensitive receptors, where private residential amenity has a high value and is most susceptible to the visual effects of the proposed development. Nearby properties on the south side of Ballyogan Road potentially have oblique views of the proposed development from the private rear of

their properties and are therefore moderately to highly sensitive to the proposed development.

8.14.10. Users of the local road network will be moderately sensitive to the proposed development.

8.14.11. Leisure users enjoying the countryside and green open spaces in the wider area will have a moderate susceptibility to the proposed development.

8.14.12. *Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

8.14.13. The principal mitigation measures are inherent in the design of the scheme. The design has evolved through an iterative process having regard to the site's location and zoning.

8.14.14. Contrasting building heights, volumes, textures and materials are used, the development is set within generous public open space.

8.14.15. *Residual Impacts*

None.

*Landscape – Conclusion*

8.14.16. The PA contest the appropriateness of the visual impact of the proposal. It is considered that the scale, height and massing fails to have regard to its surrounding context and would have a detrimental impact on the character of the surrounding area. It is considered it would present an abrupt transition between employment zoned land and the open space zoned land. I refer the Board to my assessment under paragraph 7.5 above 'Transitional Zone and Building Height'.

8.14.17. The proposal, with building heights of 11 storeys, will result in significant visual change to the subject site and its appearance from surrounding areas. This, of itself, does not render it unacceptable. There are no protected views that directly affect the proposal.

8.14.18. I submit that the proposal cannot be assessed in a vacuum without reference to the evolving and changing cityscape in the wider vicinity. As an entity the landscape character has evolved. The landscape continues to evolve with recent developments of varying heights sitting alongside low rise buildings. The existing

retail park is dominated by low rise buildings surrounding surface car parking. In view of the policy considerations and the identification of the site for redevelopment to a certain scale and strong presence to the public realm I consider that the impacts are positive and acceptable.

8.14.19. I have considered all of the information in relation to landscape. I consider that the proposal development would have a positive impact on the landscape. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on landscape.

### **8.15. Interaction of the Above and Cumulative Impacts**

8.15.1. I have considered the interrelationships between factors and whether these may, as a whole, affect the environment, even though the effects may be acceptable when considered on an individual basis. The details of all interrelationships are set out in Chapter 14 with Table 14.1 providing a matrix of the interactions. In my assessment of each environmental topic I have considered the likelihood of significant effects arising as a consequence of interrelationship between factors. Most interactions e.g. the impact of noise, vibration and air quality on the population and human health, biodiversity and landscape, proposed drainage and wastewater arrangements and the water chapter of the EIAR are addressed under individual topic headings. I am satisfied that effects as a result of interactions can be avoided, managed and/or mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the approval for the development on the grounds of significant effects as a result of interactions between the environmental factors.

8.15.2. Cumulative impacts were assessed in each chapter of the EIAR with regard had to, the proposed development on the overall masterplan site and other developments in the vicinity (for example Golf Lane SHD which has been approved to the west of the proposed development, development at Clay Farm to the west, the Glenamuck District Roads Scheme, and permitted residential development in the wider area including Kiltarnan and Glenamuck. These projects in the surrounding area are listed within section 3.8 of this EIAR document). The impacts are summarised in Chapter 14. Consideration was given both to the construction and operational phases. I am



satisfied that the cumulative assessment is robust and fully assesses the impacts of the current proposal in the context of other permitted and proposed developments and projects.

## 8.16. Reasoned Conclusion on the Significant Effects

8.16.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant and submissions made by prescribed bodies to the application and the first party appeal received by the Board, it is considered that the EIAR as amended identifies and describes adequately the direct and indirect significant effects on the environment of the proposed development. It is considered that the main significant direct and indirect effects of the proposed development on the environment are and will be mitigated as follows:

- Significant direct effect on the landscape. The proposal would make a positive contribution to the urban character of the area, given the development plan policy considerations and the identification of the site for development to a certain scale with a strong presence to the public realm.
- Effects on population and human health arising from noise, vibration, dust, traffic, excavation and demolition impacts during construction which will be satisfactorily mitigated by a Construction and Demolition Management Plan including Construction Traffic Management Plan and Traffic Management Measures.
- Significant direct positive effects with regard to population and material assets due to the increase in housing stock and provision of local neighbourhood services that it would make available in the area.
- Effects on traffic arise due to trips to the site. The proposed uses will in the main serve local need and the retail warehousing element is already a use in the area. Provision of neighbourhood centre facilities will reduce trips from the area to other locations.

8.16.2. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. Notwithstanding the wider issue in relation to unacceptable principle of the 'Residential – BTR' (new distinct use class) development on 'E' zoned lands, it is considered that the environmental

effects would not justify a refusal of planning permission having regard to the overall benefits of the proposed development.

## 9.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be Refused for the following reasons and considerations.

## 10.0 Reasons and Considerations

1. The site is located in an area zoned objective 'E', "to provide for economic development and employment", in the current Dun Laoghaire Rathdown County Development Plan 2022 – 2028. The Board considers that the proposed development would materially contravene the zoning objective as set out in this Plan as 'Residential – BTR', introduced as a new distinct use class in the new Dun Laoghaire Rathdown County Development Plan 2022 – 2028 is 'not permitted' within the 'E' zone. The Board pursuant to the provisions of section 37 (2) (b) of the Planning and Development Act, 2000, is precluded from the granting of planning permission for the proposed development as it is not open to materially contravening the new County Development Plan. None of the provisions of section 37(2) (b) (i) (ii) (iii) or (iv) of the said Act can be relied upon in this case. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Note:

The applicant is advised that the Board considers that the proposed development is contrary to Table 12.1 'Apartment Mix Requirements' of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028.

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Fiona Fair  
Senior Planning Inspector  
21.02.2023