



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313193-22

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<b>Development</b>	Development consisting of construction of a 5 to 6 storey apartment building, accommodating 52 no. residential units, and all associated site works.
<b>Location</b>	Glenavon House, 46 Ballymun Road, Glasnevin, Dublin 9.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2683/21
<b>Applicant(s)</b>	Glenavon Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party vs. Condition Third Parties vs. Grant
<b>Appellant(s)</b>	1. Glenavon Developments Limited 2. Hillcrest Court Owners Management Company 3. Liam Burke

4. Residents of St. Mobhi Road and Hillcrest Court; the Clonmore Court Residents Committee; and No. 23 Ballymun Road.

**Observer(s)**

1. Glasnevin Village Residents Association

2. Annmarie Rogers

3. Lynda O’Gorman

**Date of Site Inspection**

13<sup>th</sup> January 2023

**Inspector**

Stephen Ward

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## 1.0 Site Location and Description

- 1.1. The site is located in Glasnevin, at a distance of c. 3km to the north of Dublin City Centre. It is located to the south of Griffith Avenue, in close proximity to its junction with Ballymun Road and St Mobhi Road.
- 1.2. The appeal site has a stated area of 0.39 ha and is accessed via an existing vehicular entrance off Ballymun Road to the west. It currently contains a 'backland' dwelling house known as Glenavon House and associated outbuildings (total area 258m<sup>2</sup>). The site generally slopes downward to the south and west. It contains clusters of mature trees as well as dense vegetative overgrowth.
- 1.3. The surrounding area is generally residential in nature. To the north, south, and west, the site bounds onto a variety of residential apartment developments containing blocks of 2 to 4 storeys. To the east, the site bounds onto the rear gardens of semi-detached dwellings on St Mobhi Road. The western side of Ballymun Road is also mainly fronted by semi-detached dwellings.

## 2.0 Proposed Development

- 2.1. The application sought permission for construction of a 5 to 6 storey apartment building, accommodating 52 no. residential units, and all associated site works. In summary, it is comprised of the following:
  - Construction of a 5 to 6 storey apartment building (total GFA c.5,330 sqm excluding car park), partially over basement, accommodating 52 no. residential units.
  - The residential units will comprise 13 no. 1-bed apartments, 9 no. 2-bed apartments, 17 no. 2-bed duplex apartments, 8 no. 3-bed apartments and 5 no. 3-bed duplex apartments, all with private balconies on the east or west elevation.
  - Landscaping and boundary treatment works.
  - Demolition of existing habitable house and ancillary outbuildings.

- Modification of existing vehicular and pedestrian site entrance to Ballymun Road.
- 1 no. car share space at surface level, 37 no. car parking spaces at basement, and 80 no. bicycle parking spaces.
- ESB substation, switch room, solar panels and green roof.

2.2. Foul waste would discharge to the existing combined public sewer at the northern end of the site. Surface water measures will be adopted to delay and minimise discharge from the site, which would be via an existing surface water manhole within the site. For water supply, it is proposed to connect to the existing public water main on Ballymun Road.

2.3. In response to the planning authority's further information request, the proposed development was amended. The main changes can be summarised as follows:

- Construction of a 4 to 6 storey apartment building (total GFA c.4,466 sqm excluding car park), partially over basement, accommodating 44 no. residential units.
- The residential units will comprise 14 no. 1-bed apartments, 24 no. 2-bed apartments (including 8 no. duplex apartments), 6 no. 3-bed apartments, all with private balconies on the east, west or south elevation.
- Reuse of existing gate piers and salvage of iron gates for reuse off site.
- Provision of 2 no. car share spaces at surface level, 30 no. car parking spaces at basement, and 72 no. bicycle parking spaces (including 12 no. surface level).
- Reconfiguration of amenity open space.
- Retention of additional trees on site.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant permission on the 9<sup>th</sup> of March 2022.

Notable conditions include the following:

21. *The development hereby permitted shall be amended as follows:*

*(i) Block C shall be reduced by one storey by omitting the fourth floor plan i.e. Unit No's. C-4-01, C4-02 and C-4-03*

*(ii) Tree T50 as indicated on drawing number 2006-BRD-PL-015A shall be retained and the internal access road realigned as necessary. Details to be submitted and agreed in writing with the planning authority prior to the commencement of development.*

*Reason: To protect residential amenities, avoid an overbearing impact on the adjoining residential development at Mobhi Court and in the interests of amenity, ecology and sustainable development.*

22. *The new entrance gates proposed onto Ballymun Road shall be omitted from the development and the residential development shall remain ungated.*

*Reason: In compliance with Policy QH10 of the Dublin City Development Plan supporting the creation of a connected and well-linked city, avoiding exclusion and division.*

### **3.2. Further Information**

Following initial assessment and reports, the Planning Authority requested further information. The issues raised can be summarised as follows:

1. Based on serious reservations with regard to the demolition of the existing house, which is considered to be of architectural and cultural interest, the applicant is requested to reconsider the justification for demolition and to explore the possibility of retaining, conserving and adapting the historic house on site.
2. The planning authority considers that the height and length of the proposal may result in a negative impact upon the prevailing historic context established by the architectural quality of houses in the area and would also have overbearing effects on adjacent properties on Saint Mobhi Road and the units within Hillcrest Court and Mobhi Court. The applicant is, therefore, requested to submit any proposals they may have to reduce the potential visual and overbearing impacts. This may result in a reduction in height and/or length for part or all of the proposed development and/or other design measures.

3. The planning authority is concerned about potential excessive overlooking towards Nos. 16 – 30 Mobhi Court. The applicant is, therefore, requested to address these concerns in terms of possible reduction in the scale of glazing proposed and/or omission of windows and or/ the increasing of separation distances between the southern end of the block and the site's boundary to the south. The latter may also allow for the creation of a higher quality, more useable and greater quantity of external amenity space suitable for families.
4. The applicant is advised that VSC results and corresponding window location for Nos. 16 – 30 Mobhi Court have not been correctly incorporated into the Daylight and Sunlight Assessment Report submitted (Figure 5.8 of this report indicated an adjacent block). The applicant is therefore requested to submit updated VSC results and corresponding window identification for 16 – 30 Mobhi Court. Should the results fall below recommended target BRE values the applicant is requested to address same in a comprehensive manner. This may involve a reduction in height and / or an increase in the separation distance between the existing block in Mobhi Court and the southern elevation of the block proposed.
5. Having regard to the submitted Townscape and Visual Impact Assessment, the Planning authority consider that some of the resulting views may be considered to be 'negative', in particular the view from Mobhi Court (VVM 8) and from Griffith Avenue (VVM 2). In this context, the planning authority considers that additional landscape and / or elevational design mitigation measures could be introduced such as a greater refinement of architectural detailing on the southern facade; green walls and/or additional planting of native tree species along the site boundaries to enhance and establish screening to adjacent residential developments (i.e. Mobhi Court and Glenavon Court) and to the public domain. The applicant is requested to submit any proposals they may have in this regard.
6. The applicant is requested to address the following residential amenity issues:
  - (a) Update the ADF findings to reflect the higher 2% ADF value and for those units not meeting all of the requirements of the daylight provisions to set out a rationale for any alternative compensatory design solutions.
  - (b) Submit details of the additional floor area required for the duplex units and to provide confirmation that the majority of units proposed continue to exceed the



minimum floor area requirements by at least 10% in accordance with Section 3.8 (a) of the Sustainable Urban Housing: Design Standards for New Apartments (December 2020).

(c) Proposals to address concerns about the inclusion of 3-bed single-aspect units.

(d) Clarification of storage provision for apartments.

7. Proposals to address the following landscaping and amenity issues:

(a) Clarification of financial contributions in lieu of public open space.

(b) The applicant is requested to explore the possibility of providing public open space on site.

(c) Based on concerns about the proportion of trees to be removed (80-90%), the applicant should endeavour to retain as many trees as possible and all submitted information should be checked and coordinated for accuracy.

(d) Details of the play provision within the scheme should be provided, including areas for passive recreation.

(e) The spatial requirement of the apartment guidelines should be confirmed.

(f) Landscape Masterplan to be updated to allow for a comprehensive cross-referencing between the plans and section and the accompanying legend.

(g) Explore the possibility of reusing the original gate and piers.

(h) Submit a green roof plan within the landscape architecture report. The potential to use roof space for residents should also be explored.

8. Based on boundary treatment proposals the applicant shall:

(a) Submit details on the aesthetics of the proposed steel fence.

(b) Submit a full survey of the boundary walls around the site. Where historic boundary walls remain, these shall be retained in full as much as is practicable.

(c) Clarify locations of the boundary treatments and consents.

(d) Address conflicting proposals for boundary treatments as indicated on Drawing No. 104 and Drawing No. 2006-BRD-PL-002.

9. Engage with Irish Water's diversions section to assess the feasibility of build over diversion of infrastructure and submit the outcome of the engagement.
10. Submit evidence of commitment from a car share provider to service the site and a detailed car parking strategy.
11. Submit a Building Lifecycle Report.
12. Clarify if the 'lifts' indicated at roof level rise above the roof parapet level and if so to indicate clearly the height of same on revised drawings.

### 3.3. Planning Reports

The reports of the Planning Officer (i.e. before and after the further information request) reflect the decision of the Planning Authority. In summary, the following is noted from the reports:

- Residential is a permissible use under the Z1 zoning objective.
- Regarding demolition of the existing dwelling, the DCC Conservation Officer's concerns and the applicant's further information response have been considered. While it is an attractive building, it has no particular defined merits and no statutory or recommended protection status. The retention of the dwelling (through omission of Block A) has been considered but this would adversely impact on parking and open space proposals. On balance, demolition is considered marginally acceptable in this case.
- The proposal does not exceed indicative Development Plan standards for site coverage and plot ratio.
- The proposed building height (13.2m to 19m as per FI response) would materially contravene the applicable Development Plan height limit (16m). However, the planning authority may approve such developments in accordance with SPPR3 of the Urban Development and Building Height Guidelines. Having regard to SPPR3 criteria and the height reduction of Blocks A and B in the FI Response, it is stated that:
  - The site is adequately served by public transport and is within reasonable cycling distance of the city centre.

- The proposal can comfortably be accommodated without adversely impacting on visual amenities / local character. However, one storey (3 apartments) should be removed from Block C in order to protect the amenities of properties in Mobhi Court.
  - A financial contribution in lieu of public open space is acceptable given the site constraints and the availability of open space in the wider area.
  - The building is generally not monolithic, although the short southern elevation could be described as such. The elevations have been modulated through the use of stepped profile, levels, punctuation, and materials.
- The following is stated regarding impacts on surrounding groups of properties:

St Mobhi Road (to the east)

- The reduced height and increased setbacks etc. proposed in the FI response has satisfactorily addressed overbearing concerns. The design measures would successfully prevent any excessive overlooking. The applicant's Daylight and Sunlight Assessment Report assesses Vertical Sky Component (VSC), Annual Probable Sunlight Hours (APSH), and sunlight to rear gardens. Based on the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight: A guide to Good Practice' (2011), the planning authority is satisfied with the findings of the applicant's assessment. The FI response includes a revised report which finds that one window in No. 23 would have a 'profound' effect. However, this is due to its existing low baseline condition and its compromised location.

Clonmore Court (to the west)

- No excessive overlooking or overbearing impacts will occur. In accordance with BRE standards, the communal open space will retain adequate sunlight and the windows will retain adequate APSH and VSC.

Glenavon Court (to the north)

- No excessive overlooking impacts will occur. In accordance with BRE standards, the communal open space will retain adequate sunlight and the windows will retain adequate APSH and VSC.

Hillcrest Court (to the northeast)

- No excessive overlooking impacts will occur, and the reduced height of Blocks A and B would reduce any overbearing impacts. In accordance with BRE standards, the communal open space will retain adequate sunlight and the windows will retain adequate APSH. The VSC value for one window may be reduced to marginally less than 0.8 times the current value but this is not considered significant.

Mobhi Court (to the south)

- The FI response has increased the separation distance and improved the relationship with this property. However, the protection of amenity is paramount, and Block C should be reduced in height by one storey to avoid overbearing impacts and provide a more appropriate height transition. The proposed development will not have any significant sunlight impacts on this property. In accordance with BRE standards, the revised daylight analysis submitted as further information finds that windows in 16-30 Mobhi Court would be most affected. However, the windows are small; do not appear to be serving main rooms; and their existing values are compromised by their location.

The Haven (to the southwest)

- No excessive overlooking impacts will occur. There will be no significant reduction in sunlight. In accordance with BRE standards, the windows will retain adequate VSC.
- In relation to the residential quality and amenity of the scheme, the report assesses compliance with the Apartments Guidelines and is generally satisfied with the mix, size and design of the proposed units. Some outstanding issues are addressed in the FI response as follows:

- An updated daylight assessment confirms that 99% of units comply with the higher 2% ADF target.
  - Additional floor area has been allocated to duplex units, which are 16.7% over the minimum 2-bed apartment size.
  - There are only 6 no. single-aspect units. They are all 1-bed units and would face westwards.
  - Revised drawings have clarified that adequate storage areas have been provided.
- After the FI response addressed concerns regarding tree removal, it is stated that the large tree at the entrance (no. 50) should be retained.
  - The FI response proposes the retention of existing boundaries and that new boundaries will be within the site and finished with vegetation/greening. The entrance gates onto Ballymun Road should be omitted to discourage gated communities in accordance with Policy QH10 of the Development Plan.
  - Details regarding the requirements of Irish Water can be dealt with by condition.
  - The revised parking provision, car-sharing, and parking management arrangements, as submitted in the FI response, are generally acceptable subject to the agreement of conditions.
  - It is recommended to grant permission subject to conditions, and this forms the basis of the DCC decision.

### 3.4. Other Technical Reports

- Conservation Office: The initial report recommended further information on the retention of the existing house, boundary treatment, landscaping/trees, and height reduction. The report on further information reiterated concerns about the demolition of Glenavon House from a sustainability and built heritage perspective (architectural and cultural interest). Despite the height reduction, it states that the development would be out of character with its context, particularly the dwellings along Mobhi Road, and the loss of

trees/boundaries would have a significant impact on the area. Refusal is recommended.

- Drainage Division: No objection subject to conditions.
- Transportation Division: The initial report requested further information of car-sharing and parking management. The report on further information requests clarification of parking space allocation / management and the provision of 68 no. cycle spaces. There is no objection subject to conditions.
- Parks, Biodiversity & Landscape Services: The initial report raises concerns about the adverse impact of tree loss and the absence of public open space. The report on further information again objects to the absence of public open space and the significant tree loss, particularly no. T50. A subsequent email recommends conditions to be attached in the event of a grant of permission.
- City Archaeologist: Recommends conditions to include archaeological assessment.

### **3.5. Prescribed Bodies**

Irish Water: Requested further information regarding the feasibility of diverting / building over IW infrastructure. The applicant's further information response included additional correspondence from Irish Water indicating that there would be no objections to the proposed separation distances subject to conditions.

### **3.6. Third Party Observations**

A large number of submissions were received, the majority of which were not in favour of the proposed development. The main issues raised are largely covered in section 6 of this report and can be summarised as follows:

- Support for the principle of increased housing supply on an underutilised infill site with good services.
- Support for the design of the proposal, including the size/mix of units and the generous provision of amenity space.

- The existing house should not be confused with the original Glenavon House, which was demolished.
- Concerns about building height, scale, and design.
- Lack of public consultation.
- Overbearing, overlooking, sunlight/daylight, and construction stage impacts on surrounding properties and associated devaluation.
- The cultural, historical, and architectural significance of the existing dwelling. It should be added to the Record of Protected Structures and should be retained within the scheme.
- The loss of trees and boundaries will significantly change the character of the area.
- Concerns about traffic congestion, public transport capacity, parking, and access.
- Overdevelopment of the site and inadequate open space provision.
- Concerns about excessive foul/surface water discharge, sewer capacity, and flooding.
- Impacts on biodiversity, flora and fauna.
- Concerns about the archaeological sensitivity of the area.
- The details and drawings submitted are inaccurate and misleading.
- The further information response did not fully address the issues raised.
- An excess of rental properties will negatively impact on the neighbourhood.
- Substandard level of residential amenity for the proposed units.
- Inadequate services and infrastructure in the area.
- The cumulative impact of other proposed developments in the area.
- The application is invalid.

## 4.0 Planning History

There would not appear to be any relevant planning history relating to the appeal site. There is also no recent history of significant applications on the adjoining sites. Notable applications in the wider surrounding area include the following:

**ABP Ref. 312492-22:** Permission refused (July 2022) for demolition of outbuildings, construction of 112 no. apartments and associated site works at Balnagowan House, St. Mobhi Boithirin.

**ABP Ref. 314610-22:** Current application for BusConnects Ballymun/Finglas to City Centre Core Bus Corridor Scheme.

**ABP Ref. 314724-22:** Current Railway Order application for Metrolink - Estuary to Charlemont via Dublin Airport.

**ABP Ref. 310791-21:** In March 2022 the Board refused to grant permission for the demolition of the Washerwoman restaurant and other buildings located along Glasnevin Hill, to allow for a five-storey block comprising a restaurant at ground floor and 18 apartments on the upper-floors, due to the substandard residential accommodation proposed.

**ABP Ref. 308905-20:** In April 2021 the Board granted a strategic housing development for the demolition of a motor showroom and other buildings located along Glasnevin Hill, to facilitate the construction of two six to seven-storey blocks comprising four commercial units at ground floor and 101 apartments.

## 5.0 Policy Context

### 5.1. National Policy & Guidance

- 5.1.1. The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:



NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;

NPO 4 promotes attractive, well-designed liveable communities;

NPO 6 aims to regenerate cities with increased housing and employment;

NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;

NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking;

NPO 27 promotes the integration of safe and convenient alternatives to the car into the design of communities;

NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;

NPO 35 encourages increased residential density through a range of measures, including site-based regeneration and increased height.

- 5.1.2. Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**, hereafter referred to as ‘the Building Height Guidelines’, outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.
- 5.1.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as ‘the Sustainable Residential Development Guidelines’, sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.
- 5.1.4. **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020 (updated December 2022)**, hereafter referred to as ‘the Apartments Guidelines’, sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking. The Guidelines were updated on the 22<sup>nd</sup> of December 2022, but Circular NRUP 07/2022 clarifies that appeals that are subject to consideration within the planning system on

or before 21st December 2022, will be considered and decided in accordance with the 2020 version of the Apartment Guidelines, that include SPPRs 7 and 8.

- 5.1.5. The **Climate Action Plan 2023** implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

## 5.2. **Dublin City Development Plan 2022-2028**

- 5.2.1. The DCC decision was made under the Dublin City Development Plan 2016-2022. However, the Dublin City Development Plan 2022-2028 was adopted on the 2<sup>nd</sup> of November 2022, and it came into operation for this area as of the 14<sup>th</sup> of December 2022.

### Strategy

- 5.2.2. The overarching strategic approach of the plan is to develop a low carbon, sustainable, climate resilient city. The housing demand calculated sets a requirement for the development plan to provide for approximately 40,000 housing units between 2022 and 2028.
- 5.2.3. The Core Strategy outlines that compact growth will be promoted throughout the city through appropriate infill development and consolidation of brownfield sites and targeted growth along key transport corridors. It acknowledges the Metrolink – LUAS Corridor, as identified in the Dublin Metropolitan Area Strategic Plan, along which the appeal site is located. The site is not included within any specifically identified SDRAs/Strategic Lands.

### Climate

- 5.2.4. Chapter 3 deals with ‘Climate Action’ and sets out a strategic approach to integrate climate mitigation and adaptation principles in order to ensure that Dublin becomes a low carbon and climate resilient city. In summary, relevant policies and objectives

relating to sustainable settlement patterns, the built environment, and sustainable transport include the following:

CA3 - Support the transition to a low carbon, climate resilient city by seeking sustainable settlement patterns, urban forms and mobility.

CA4 - Support retrofitting of existing built-up areas including reopening closed walking and cycling links and providing new links.

CA5 - Ensure that all new development including SDRAs integrates appropriate climate mitigation and adaptation measures.

CA6 - Promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.

### City Shape & Structure

5.2.5. Chapter 4 sets out the overarching framework and strategy to guide the future sustainable development of the city. The vision for the urban form and structure of the city is to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. A key objective will be to ensure that large suburban areas are integrated into the structure of the city, both in relation to the city centre and the metropolitan area. In summary, relevant policies and objectives include the following:

SC8 - Supports the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land.

SC9 – To develop and support the hierarchy of the suburban centres, including Key Urban Villages, Urban Villages and Neighbourhood Centres.

SC10 – Ensure appropriate densities in accordance with national policy.

SC11 - Promote compact growth through consolidation and intensification of infill and brownfield lands, particularly on public transport corridors.

SC12 - Promote a variety of housing and apartment types and sizes, as well as tenure diversity and mix.

5.2.6. Section 4.5.4 deals with increased building height and outlines that Appendix 3 sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted. Appendix 3 also outlines performance criteria for the assessment of such development and details the different classifications of building height in the city. The spatial approach is generally to protect the vast majority of the city as a predominantly low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller landmark buildings to deliver more sustainable compact growth, including areas identified for large scale regeneration and redevelopment. In summary, relevant policies and objectives include the following:

SC14 – Strategic approach to accord with the Building Height Guidelines.

SC15 – Promotes a mix of uses in large scale development with increased height.

SC16 – Recognises the need for increased building height in identified locations, subject to the protection of existing amenities and sensitivities.

SC17 – Sets out guidance for proposals with increased scale/height in order to protect and enhance the skyline of the city.

SC18 - Promote a co-ordinated approach to the provision of landmark/tall buildings.

5.2.7. Sections 4.5.5 and 4.5.6 of the Plan set out policies and guidance in relation to Urban Design, Architecture, and the Public Realm.

### Housing

5.2.8. Chapter 5 deals with 'Quality Housing and Sustainable Neighbourhoods' and the strategic approach aims to deliver quality homes and sustainable communities in the compact city. Based on national and regional policy guidance, it outlines a range of policies and objectives aimed at promoting regeneration, urban consolidation, densification, and healthy placemaking. A core objective of the plan is to promote the realisation of the 15-minute city, which envisages that people should have the ability to access most of their daily needs within 15 minutes on foot or bike from where they live. It promotes a range of house types and tenure to cater for social inclusion and particular housing needs. The Plan also promotes high-quality standards and design

for housing and apartments developments, including high standards of residential amenity, housing mix, and social/community infrastructure.

### Transport

- 5.2.9. Chapter 8 deals with 'Sustainable Movement and Transport' and presents an integrated strategy that supports and prioritises the use of sustainable modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Objective SMT01 aims for travel mode share targets of 26% walking/cycling/micro mobility; 57% public transport (bus/rail/LUAS); and 17% private (car/ van/HGV/motorcycle). The Plan aims towards the effective integration of land use and transportation and encourages higher-density development along public transport routes. It also aims to improve the public realm and accessibility for all.
- 5.2.10. The Plan recognises the Radial Core Bus Corridors, including No. 3 (Ballymun to City Centre), which is in close proximity to the appeal site. Policy SMT22 supports the delivery of key sustainable transport projects, including BusConnects Core Bus Corridor projects.
- 5.2.11. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development and confirms that policies to discourage commuter car parking are further strengthened in the plan. Section 8.5.9 highlights the need to keep all road users interacting safely and efficiently, as is supported in policies SMT 33, SMT 34, and SMT 35.

### Built Heritage, Archaeology, and Culture

- 5.2.12. Chapter 11 recognises the importance of protecting built heritage and archaeology in quality place-making and urban design. The strategic approach aims to protect these heritage assets primarily through sensitive development and high-quality architecture; the inclusion of structures on the Record of Protected Structures (RPS); the designation of Architectural Conservation Areas and Areas of Special Planning Control; safeguarding zones of archaeological interest; implementing the City Heritage Plan; and promoting the re-use of heritage buildings. There are no protected structures on the appeal site, and it is not located within an ACA or other

'Conservation Area'. The southern site boundary adjoins a National Monument (RMP No. 018-005). Relevant policies and objectives can be summarised as follows:

BHA5 - Presumption against the demolition or substantial loss of any building or other structure assigned a 'Regional' rating or higher by the National Inventory of Architectural Heritage (NIAH).

BHA6 - Presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847.

BHA11 – Supports the rehabilitation and reuse of existing older buildings.

BHA15 - Encourage the appropriate development of exemplar twentieth century buildings and structures to ensure their character is not compromised.

BHA26 – Aims to protect and preserve archaeological heritage.

- 5.2.13. Chapter 12 deals with Culture and aims to strike a balance between achieving the cultural vision and aims of the National Development Plan in tandem with the targets of the National Planning Framework in terms of climate resilient, sustainable compact growth. It outlines a range of policies and objectives aimed at protecting and expanding cultural infrastructure and resources.

#### Zoning

- 5.2.14. The appeal site is zoned 'Z1 – Sustainable Residential Neighbourhood', the objective for which is '*To protect, provide and improve residential amenities*'. The vision for residential development in the city is one where a wide range of high-quality accommodation is available within sustainable communities where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services. 'Residential' is a permitted use in the zone.

#### Development Management

- 5.2.15. Chapter 15 sets out the standards and criteria to be considered in the development management process, as well as guidance on the information to be submitted for various applications. Relevant aspects include the following:

15.4 – Key Design Principles aim for high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.

15.5.2 - Infill development should respect and enhance its context and be well integrated with its surroundings, ensuring a more coherent cityscape.

15.5.5 – Higher density will be supported subject to suitable context and design.

15.6 - Sets out the requirements in relation to biodiversity, green infrastructure and landscaping, including surface water management, trees and hedgerows, and open space.

15.7.1 - Encourages the reuse of existing buildings where possible.

15.8 - Sets out the general requirements for residential development followed by more specific guidance for apartments, Build to Rent, student accommodation, houses, and other residential typologies.

15.15.2.4 – Sets out guidance regarding the demolition of buildings/structures of significance that are not protected.

### Appendices

5.2.16. The Development Plan includes a number of relevant appendices, including the following:

Appendix 1 contains the Housing Strategy.

Appendix 3 ‘Achieving Sustainable Compact Growth’ outlines policy and criteria in relation to building height, density, plot ratio, and site coverage.

Appendix 5 ‘Transport and Mobility’ expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments.

Appendix 16 outlines guidance and standards in relation to ‘Sunlight and Daylight’.

### 5.3. Natural Heritage Designations

- 5.3.1. The site is c. 1.5km north of the Royal Canal Proposed Natural Heritage Area. It is c. 3.3km northwest of the nearest Natura 2000 site, which is the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024).

### 5.4. Environmental Impact Assessment (Preliminary Examination)

- 5.4.1. An EIA screening exercise was included with the application (in the applicant's Planning Report). It concluded that the proposed development does not meet or exceed the relevant thresholds and that a mandatory EIAR is not required.
- 5.4.2. I note that Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.4.3. Class 14 of Schedule 5 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 5.4.4. Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 5.4.5. A detailed description of the development is outlined in section 2 of this report. In summary, it was proposed to demolish existing buildings (258m<sup>2</sup>) and to construct a maximum of 52 apartments, which is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.39 ha and is located within an existing built-up area. The site area is therefore well below the applicable threshold of 10 ha.



- 5.4.6. As outlined above, the criteria at Schedule 7 to the Planning and Development Regulations 2001 (as amended) are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that should be the subject of environmental impact assessment.
- 5.4.7. The site is within an existing residential area where the Z1 zoning objective aims to protect, provide and improve residential amenities, including the accommodation of additional dwellings. The addition of 52 apartments will not significantly increase the scale of residential development in the wider area. Having considered the Schedule 7 criteria, I consider that the potential impacts within a zoned, serviced, urban location will not have an adverse impact in environmental terms on surrounding land uses.
- 5.4.8. The proposed development will not significantly increase the risk of flooding within the site and surrounding lands. It is not likely to have a significant effect on any European Site (as discussed in section 8 of this report) and there is no hydrological connection present such as would give rise to significant impacts on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would not be significant.
- 5.4.9. The third-party submissions have been noted, including concerns in relation to built/cultural heritage, archaeology, loss of trees / biodiversity, traffic, and flooding. However, having regard to the nature and limited scale of the site and the proposed development, I am satisfied that these matters can be adequately assessed without the need for EIA.
- 5.4.10. Having regard to the nature, scale, and location of the proposed development, and the environmental sensitivity of the geographical area, I do not consider that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances and having regard to the

criteria in Schedule 7 of the Regulations, I conclude that the proposed sub-threshold development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case.

## 6.0 The Appeal

### 6.1. First Party Appeal

The applicant has appealed Condition no. 21 of the DCC decision and requests its omission entirely. The grounds of appeal can be summarised under the following headings.

#### Unnecessary omission of 4<sup>th</sup> Floor (Block C)

- This discrete element is only one storey higher than Blocks A and B and has been sized, setback, and orientated to protect the amenities of adjoining properties to the east and south.
- Existing trees (Nos. 22 and 24) will be retained to provide screening to Mobhi Court, along with additional planting. The top floor looks over the roof of Mobhi Court, thereby avoiding any direct overlooking impacts. It will not be overly dominant or overbearing on surrounding properties.
- Elevational treatment to the south was altered to enhance visual interest and massing. The living area windows have also been screened to reduce the potential for overlooking impacts.
- The planning authority's assessment appears to concur with the above. However, the reason for omitting the 4<sup>th</sup> floor cites overbearing concerns despite any clarification on the nature of overbearing impacts. There is no evidence to suggest that the environment at Mobhi Court would be improved through a reduction in height.
- Although the existing design of Mobhi Court may not perform well, it has redevelopment potential and good quality design should not be prejudiced. None of the other neighbouring properties are significantly adversely impacted by the height of Block C.

- The proposal represents the optimal sustainable use of the site given its proximity to services and infrastructure, and precedent Board cases (ABP Ref 308834, ABP Ref 312492) support the achievement of appropriate density for such sites.
- The removal of the 4<sup>th</sup> floor would involve the loss of 3 apartments, with arguably limited benefit to the properties in Mobhi Court.
- The amendments submitted as further information have improved several aspects of the scheme and the removal of the 4<sup>th</sup> floor is not justified from an architectural, visual, or residential amenity perspective.

#### Retention of Tree No. 50

- Every feasible effort has been made to retain trees, including 5 out of the 6 Category B trees around the site perimeter. Thereafter, many trees are unsuitable for retention and additional planting will compensate for loss.
- The applicant has explored the feasibility of retaining tree no. 50. While protection efforts could be made during construction, retention is likely to prove impracticable due to the high level of servicing required, which will interfere with its root zone.
- Trenches for water, electricity, etc. will run through the Root Protection Area (RPA) for this tree, and the proposed substation, basement, and construction traffic will also encroach on the RPA.
- The applicant's Tree Constraints Plan shows the RPA spanning the entire width of the site entrance and the Arboricultural Impact Assessment concludes that the development would severely impact its long-term health and condition.
- It is not feasible to alter the proposed basement due to site conditions and the terms of the permitted development. And the planning authority has accepted that it is not possible or appropriate to facilitate additional surface level parking to compensate a reduced basement area.
- There is no alternative location for the substation and condition 9(vi) of the DCC decision may require further enlargement of the substation, with consequences for the ability to retain tree no. 50.

- The tree cannot realistically be retained, and a replacement mature specimen will be planted in the area post construction.

### Planning Policy Considerations

- The development is supported by planning policy considerations at local and regional level for a brownfield site in a central, accessible urban location.
- The height and density of the development would be suitable for the location/nature of the site and would be consistent with Government policy, as demonstrated in the details and documentation submitted.
- The removal of the 4<sup>th</sup> floor is not justified, would fail to achieve an appropriate number of units for the site, and would have only a de minimis effect on visual/residential amenity.
- The proposal is consistent with the Core Strategy and the housing policies of the Dublin City Development Plan 2016-2022. An optimal building design solution has been arrived at and condition no. 21 would be an unreasonably onerous condition.

## **6.2. Third-Party appeal by BPS Planning & Development Consultants**

- 6.2.1. This appeal was submitted on behalf of several residents of Hillcrest Court; the Clonmore Court Residents Committee; several properties on St. Mobhi Road; and No. 23 Ballymun Road. It states that the appeal should be read alongside the clients' original objection and response to the significant further information submitted by the applicant.
- 6.2.2. The applicant's original submission to DCC was on behalf of several properties along St. Mobhi Road and No. 23 Ballymun Road. The grounds of objection outlined in that submission can be summarised as follows:
- Concerns and queries are raised about a number of technical issues, including the accuracy of the drawings and documentation submitted.
  - It is stated that the overall density, scale, length, and height of the development is excessive and contrary to planning policy, including policies, standards, and guidance at national, regional, and Development Plan level.

- There would be negative impacts on the amenities of the St. Mobhi Road properties as a result of the substandard interface along the eastern side of the site; the monolithic appearance of the building and its excessive height and scale; overbearing impacts; overlooking impacts; daylight and sunlight impacts and inadequate appraisal of same; noise and disturbance; and impacts on the development potential of the properties.
- The visual impact assessment of the development is inadequate and does not accurately represent the negative visual impact, including those on private properties.
- There is an over-reliance on tree retention as a mitigation measure and very few existing trees will be retained. The excessive quantum of development will result in excessive tree loss and should have resulted in lower densities.
- Existing and proposed boundary treatment, including vegetation, will adversely impact on visual and residential amenity and would encroach on adjoining property.
- The demolition of Glenavon House would detract from the heritage value of the area.
- Traffic and car parking proposals are inappropriate and will cause overflow, congestion etc. Mitigation and management proposals are inadequate.
- There are construction phase concerns, including noise and vibration impacts; structural concerns; as well as a dust and light pollution.
- The proposed development would depreciate the value of the client properties and would set poor precedents for further similar development.
- The submission recommends refusal of the proposed development based on the foregoing concerns.
- If permission is granted, it is recommended that conditions are included to reduce the density by 40%; reduction in height (max 3-4 storeys), scale, length, and massing; increased setback from the eastern and northern site boundary; and parking ratios should be improved.

6.2.3. Following the receipt of further information, a second submission was received on behalf of the clients. The issues raised can be summarised as follows:

- All of the relevant documentation, policy, and reports have been reviewed, and there is no justification for the demolition of Glenavon House, which is a property of significance in the area and should be retained.
- The applicant's mitigation proposals for visual and overbearing impacts are inadequate and will still result in domineering impacts. The maximum Development Plan height of 16m should not be seen as a target and should be reduced.
- The extent of overlooking has not been adequately addressed and should be re-evaluated, particularly at levels 4-6. A 3-storey building would be preferable.
- The applicant's daylight / sunlight assessment results are not accepted and ADF has been inappropriately used to justify loss of light, even where a substandard VSC result arises. This is contrary to Appendix 16 of the Draft Development Plan.
- The applicant's visual assessment has demonstrated that the proposed development remains over-scaled. Glenavon House should be retained, and the height of Blocks B and C should be reduced.
- The overdevelopment of the site continues to result in substandard levels of residential amenity for the proposed units, including inadequate levels of light.
- The basement car park is excessive in scale and would adversely impact on the client properties.
- The proposal should be refused due to the absence of public open space and there would be an excessive loss of trees and other site features.
- Existing and proposed boundary treatments have not been clarified.
- Car-parking proposals are inadequate and overflow parking will occur.
- It is recommended that the development be refused or significantly amended in accordance with the original objection.

6.2.4. The appeal is largely based on the issues previously raised and includes additional clients in Hillcrest Court and Clonmore Court. The grounds of appeal can be summarised under the following headings.

### Demolition of Glenavon House should not be permitted

- The DCC reports raised concerns about demolition and requested further information on the matter.
- The house should be retained on the basis of its architectural and cultural interest.
- The applicant places excess focus on the omission of the structure from the NIAH scoping study and undermining the DCC Conservation Office reports, rather than merits of the house itself.
- Development Plan policy supports the retention of such structures on heritage and sustainability grounds.
- The cultural association with Thomas Ryan provides additional basis to retain the house.
- The proposed density is excessive, and demolition of the house should not be justified on the basis of achieving a higher density.
- The clients fully agree with the DCC Conservation Office's strong and objective concerns about the proposals submitted as further information, which have been easily discarded in the DCC decision.
- The demolition and associated loss of trees is not justified by the retention of Block A; the absence of statutory protection; the significant scheme revisions required; or the over-ruling of the DCC Conservation Office. This marginal decision to approve demolition is comparable to the historic destruction of Dublin in preference to other cited examples where similar buildings have been retained.

### Close proximity to eastern and southern boundaries

- The appeal highlights the previous objections regarding the proximity of the proposed development and its excessive, height, scale, length etc.
- After DCC's original assessment of impacts on adjoining properties and the submission of revisions as further information, the proposed design still fails to achieve an appropriate interface.
- The clients at Hillcrest Court and Mobhi Road do not feel that the reduction of Blocks A and B by one storey is acceptable due to proximity; excessive height, scale, bulk, massing; and the inclusion of many windows and

balconies. This would cause negative and unacceptable overbearing, overlooking, and overshadowing effects. Blocks A and B should be reduced to 3 storeys and should be staggered down along the falling site levels.

- Block B remains 5 storeys and its setback from the eastern boundary has been reduced. Little has been done to address the clients' concerns.
- The omission of one storey from Block C (as per DCC decision) would still leave the block too tall and towering over the properties at Mobhi Court and Mobhi Road. It should be limited to 4 storeys at a lower ground level to protect against visual and residential amenity impacts.

#### Visual and Overbearing impacts

- The revised scheme does not include a sufficient setback from Mobhi Court and would be excessive in height and scale. The revised southern elevation does not mitigate the visual impact. The balconies and openings would overlook Mobhi Court and the development potential of the car park would be adversely affected.
- The Mobhi Road properties will continue to be overlooked due to the height, proximity, and presence of openings along the east elevation.
- The proposed scheme represents a significant imbalance compared to Clonmore Court, including excessive length; overlooking impacts; excessive height above 3 storeys; inadequate screening mitigation; and the overbearing impacts due to excessive scale, bulk, etc.
- The large full height windows and balconies at the northern end of the site would have unacceptable overlooking impacts on Hillcrest Court. Block A should face westward. And while 3 storeys could be achieved at this location, 4 storeys cannot, and the scheme should be reduced by one storey or suitably redesigned to avoid overlooking to the east.

#### Overshadowing

- There has been an over emphasis on the use of the BRE guidelines and compliance with these standards should not necessarily be deemed acceptable. The scheme's top two storeys would cause significant, negative, and permanent overshadowing of adjoining properties, which has not been addressed in the revised FI scheme.



- In terms of VSC, Block C would slightly or significantly impact 11 out of the 15 closest windows in Mobhi Court and it is not clear why these impacts have been accepted by DCC.
- The removal of one floor from Block C does not address overshadowing of Mobhi Court. It needs to be stepped back a further 6 metres and be reduced to 4 storeys.

### Townscape and Visual Impact Assessment

- The clients strenuously object to the inadequate visual impact assessment on their private properties, which implies that private views do not matter.
- Independently produced CGIs have been included to demonstrate the negative and unacceptable visual impact from the clients' properties.
- The impacts on the sample properties at No. 25 Mobhi Road and No. 8 Hillcrest, would be negative, significant, and permanent.
- The scheme remains one storey too tall, and Block B should be stepped down from Block A. Block C should be setback further and reduced to 4 storeys.

### Car Parking

- The parking ratio of 0.7 spaces per unit will result in overspill parking in surrounding areas.
- Proposals to manage car-parking are unconvincing.

### Public Open Space

- Overdevelopment of the site and the poor quality of the scheme is demonstrated by the absence of public open space.
- There is a lack of accessible public space in the area and access to a public playground would be most welcome.
- There is no reason why public open space should not be provided on the subject site in accordance with Development Plan requirements of 10%.

### Tree Loss

- Given the maturity and quality of existing trees, the extent of loss is unacceptable and further loss may occur due a lack of clarity and drainage works.

- The tree loss would detract from the character and heritage value of the property and its surrounding area.

#### Boundary Fences

- Given the poor quality of the shared boundary with the Mobhi Road properties and the extent of works proposed, it is difficult to believe that existing boundaries will not be affected.
- The erection of new boundaries may cause future boundary disputes.

#### Depreciation of property value

- The scheme would seriously injure the amenities and depreciate the value of adjoining properties, which is a recognised issue in accordance with the fourth schedule of the Planning and Development Act 2000 (as amended).

#### Precedent

- A grant of permission would set a poor precedent for the overdevelopment of backland sites with buildings that are monolithic in scale, height, length and bulk.

#### Recommendations

- The appeal recommends refusal of the proposed development based on the foregoing concerns.
- If permission is granted, it is recommended that conditions are included to reduce the density by 30% and include a design which better respects the clients' properties; reduction in height (max 3-4 storeys), scale, length, and massing; increased setback from the eastern, southern and northern site boundary; and parking ratios should be improved.

### **6.3. Third-Party Appeal by Liam Burke (No. 8 Hillcrest Court)**

The grounds of appeal can be summarised as follows:

- Hillcrest Court would be most affected in terms of blocking direct solar radiation, particularly no. 8 and no. 6.

- All the Hillcrest apartments have very wide south-facing glass areas to the living areas.
- Impacts were dismissed on the basis that they are already overlooked.
- The rear of the western half of the building and the adjoining grounds facing south are not overlooked by any building.
- The south-facing balcony of No. 8 is not overlooked at all.
- Hillcrest Court would be most affected in terms of overlooking.
- Overlooking and overshadowing of Hillcrest Court have not been specifically addressed.
- There is no objection to dense development, but changes should be made to reduce adverse effects, e.g. reduce the height of Block A at its northern end.
- Regarding tree protection, the two tallest trees on the Hillcrest side of the mutual boundary should be specifically identified.

#### **6.4. Third-Party Appeal by Hillcrest Court Owners Management Company**

This appeal was submitted on behalf of the owners of the 8 no. apartments in the Hillcrest Court block to the northeast of the site. The grounds of appeal can be summarised as follows:

- The proposal for Block A demonstrates a lack of respect for these family homes.
- The proximity and height (3.5m above roofline) would have detrimental impacts in terms of value, privacy, overshadowing of private amenity space, and excessive loss of sunlight to habitable rooms (especially in winter afternoons).
- The homes are not currently overlooked but most of the apartments would be visible from the proposed 'open gallery' where people may gather.
- The proposed louvres would not block the sightlines from Block A windows and would not address overlooking concerns, particularly for their large sitting room windows.
- The objection to the development is to its scale.

## 6.5. Observations

Three observations have been received, the contents of which are summarised below.

### Observation by Linda O’Gorman (23 Ballymun Road)

- Glenavon House warrants inclusion on the Record of Protected Structures due to its associations with Lieut. Colonel Thomas Ryan, its period features, and its setting.
- The large removal of trees would impact on the character of the area, particularly the large Horse Chestnut at the front gate.
- The site has a rich variety of flora and fauna, and the development would have a significant impact on the ecology of the area.
- The proposed height is out of context with the prevailing 3-storey height in this area. In addition to visual impacts, there would be overlooking and daylight impacts.
- The overall design is poor and inappropriate to the setting. The elevations are dominated by balconies which create overlooking concerns and all too often become eyesores due to poor management.
- Increased traffic will cause congestion at an already busy junction and will compromise access from the property. There are several social facilities in the area and there will be increased risk to public safety.

### Observations by Glasnevin Village Residents Association & Annmarie Rogers (2 Ballymun Road)

These submissions raise similar issues which can be summarised as follows:

- The concerns about the original application have not been addressed.
- The proposed scale and height are excessive compared to surrounding development.
- Daylight and sunlight assessment has been limited to the effect on 2 hours of the day, which is inadequate. Shadow modelling shows a major impact on the

properties along St Mobhi Road due to the excessive height of the proposed development.

- The area already experiences localised flooding due to overloading of sewers during heavy rainfall. Any additional flow would exacerbate this situation.
- The loss of trees should be avoided due to their contribution to the character of the area, the environment and climate, biodiversity, and climate change. The trees and hedges along the eastern boundary are actually in the residents' gardens.
- There is a significant lack of green space within the development.
- There are concerns about traffic plans given the significant changes that the NTA has for the area. There will be additional congestion and the traffic report was carried out prior to extensive re-working of the junctions. There is a need for a comprehensive traffic study to consider planned transport infrastructure and other developments planned in the area.
- Impacts on community infrastructure have not been properly considered, including transport infrastructure, health services, community facilities, and sports facilities.
- Car-parking provision within the scheme is clearly inadequate and will result in overspill parking in the surrounding area.
- The loss of a beautiful house and gardens is regretted. The house should be incorporated into any redevelopment of the site and the cumulative impacts of a similar proposal for Balnagowan House should be considered.

## 6.6. Planning Authority Response

The planning authority requests that, in the event of a grant of permission, conditions should be included as follows:

- A Section 48 Development Contribution condition
- An open space condition
- A social housing condition

- A bond condition.

## 6.7. Third-Party response to appeals

6.7.1. One of the third parties (i.e. the BPS appeal clients) has responded to the appeals. It supports the third-party appeal by Hillcrest Court Management Company. The issues raised in the response to the first-party appeal largely reiterate their own appeal concerns and any additional issues can be summarised under the following headings.

### The DCC decision

- The decision to apply condition no. 21 arises from material and substantive grounds, as outlined in the planner's report and the Parks and Biodiversity Services report. It can be seen to favour the applicant given the inadequate public open space and the extent of tree loss proposed.
- The DCC decision is far too lenient and requires further amendments as outlined in the BPS appeal. Concerns include the significant visibility and overbearing impact of the development, the excessive tree loss, and the inadequate public open space proposals.

### Comments on the first-party appeal

- It is not accepted that tree no. 50 should not be retained on any grounds of amenity, ecology, or sustainable development.
- The preference to remove condition 21 is further evidence of an insensitive approach.
- DCC did not welcome the proposed development, as evidenced by condition no. 21.
- The proposed density is achieved in an unacceptable manner of design.
- The proposals are not conservation-led, and the clients disagree with the DCC approach to Glenavon House, as is supported by the DCC Conservation Office.

- The clients have produced CGIs which demonstrate the adverse overlooking and overbearing impacts of the proposed development.
- The applicant inappropriately highlights the low baseline VSC for Mobhi Court. The appeal inappropriately argues that minimum standards are reasonable, and that the situation would not be improved by the omission of an additional storey.
- The applicant relies on the DCC planner's report to support the scheme, but yet still takes issue with condition no. 21.
- The non-retention of tree no. 50 would require a re-opening of DCC's assessment of public open space proposals.
- The building height is excessive, and the design proposals and screening would not successfully mitigate its unacceptable impacts.
- The DCC decision takes an inappropriate middle ground between the desires of the applicant and the clients.
- The overbearing impact of Block C is clear by reason of its size, scale and height in relation to Mobhi Court. The clients appeal argues that 2 storeys should be removed from the block.
- The applicant's comments regarding the compromised design of Mobhi Court are disrespectful and reflective of the unsympathetic approach to adjoining development.
- The cumulative adverse impacts of Block C on Mobhi Road and Clonmore Court properties are sufficient to justify a reduction to 4 storeys.
- The applicant provides no convincing evidence as to why tree no. 50 cannot be retained. If the Board finds that it cannot be retained, the best decision for all parties is to refuse the scheme and require the retention of the tree and Glenavon House, together with the provision of public open space.
- The clients submit that condition 21 is justified and that additional conditions are justified, including the removal of an additional storey from Block C and

the removal of the north end of the building such that Glenavon House is retained, and public open space can be provided.

## 6.8. Applicant Response to third-party appeals

6.8.1. The applicant's response to the Liam Burke and Hillcrest Court appeals is similar and can be summarised as follows:

- The further information response reduced the height of Blocks A and B, increased the setback from the east and southern boundaries, and revised the east elevation. This was considered to be acceptable by the DCC planner's report in terms of overlooking and privacy impacts.
- The revisions submitted as further information would decrease the likelihood of people gathering in the 'open gallery' and any associated impacts.
- The revised Daylight and Sunlight Assessment Report concluded that the impacts on Hillcrest would be BRE complaint for VSC results; Annual Probable Sunlight Hours; and Winter Annual Probable Sunlight Hours; noting in all cases that impacts would be imperceptible.
- The quote referenced from the Hillcrest Court appeal was from the DCC planner's report at application stage. The design of Blocks A and B was subsequently amended and deemed acceptable by the subsequent DCC planner's report.
- It is reasonable to expect some degree of visibility, overlooking, and/or overshadowing in such cases. However, undue impacts will not occur in the proposed development, as was accepted by DCC.
- The applicant has successfully demonstrated that no significant adverse impact is likely to arise for the surrounding area or neighbouring property values.
- No works will occur outside the site boundary and therefore no trees outside the boundary will be removed, nor would it have been possible to carry out survey work for inclusion within the application.



- The issues raised in the appeal have already been addressed, will not result in detrimental impacts for Hillcrest Court, and would comply with national, regional, and local planning policy.

6.8.2. The applicant's response to the BPS appeal can be summarised under the headings below.

#### Demolition of Glenavon House

- The further information response included a detailed response from Lindsay Conservation Architects (LCA) outlining that the house was likely omitted from the NIAH because it failed to achieve a 'regional' rating.
- The LCA found that the house does not display any architectural or heritage features of particularly high quality or special merit that would the criteria for inclusion on the RPS.
- The report finds that Thomas Ryan did not live at the house at the time of writing his memoirs. As such, it cannot be associated with any particular literary or other cultural importance.
- DCC has not proposed to add the house to the RPS in the new Development Plan 2022-2028.
- The Balnagowan House SHD proposal involved the retention of a protected structure and is not a precedent for the current case.
- The retention of Glenavon House would not achieve a suitable density on site and would require significant alterations to its character and appearance.
- The second report of the DCC Conservation Office makes no attempt to address the further information submitted and the balanced conclusion of the DCC planner's report is welcomed.

#### Proximity to eastern and southern boundaries

- The further information response included a height reduction and increased setback from site boundaries, which was generally accepted by DCC.
- The Board is referred to the applicant's assessment of visual impacts on the area, including Mobhi Road.
- The proposal represents the optimal redevelopment solution for the site.

### Visual and overbearing impacts

- The further information response has reasonably addressed potential for undue overbearing, overlooking, and overshadowing impacts on adjoining properties.
- The technical and design assessments by the applicant and DCC present the relevant empirical evidence of impacts and no opposing scientific studies have been submitted in the appeal.

### Overshadowing

- Only 2 of the windows at 16-30 Mobhi Court would be significantly affected in terms of VSC. It is possible that they are not habitable rooms.
- The DCC planner's report was satisfied with the daylight and sunlight impacts of the proposed development on surrounding properties.
- Condition 21 of the DCC decision attempts to mitigate the shading effect of Block C on Mobhi Court. However, the 1<sup>st</sup> party appeal seeks the omission of this condition, and it is submitted that the Mobhi Court windows are already compromised.
- Some degree of shading should be expected in neighbouring gardens, but it would not be constant at any time of the year. The application demonstrates that the results meet BRE requirements, as required by the Building Height Guidelines.

### Townscape and visual impact

- The Townscape and Visual Impact Assessment (TVIA) has been scientifically prepared in accordance with relevant guidelines and DCC consultation.
- The TVIA and verified views were updated in the further information response and accepted by the planning authority, including the impacts on the Mobhi Road properties.
- Homeowners will inevitably have more subjective and sensitive opinions on visual impact. However, there is no entitlement to a view, and it is not feasible to facilitate multi-unit housing without visual impacts on neighbouring properties.

### Car parking provision

- The planning authority was satisfied with car parking provision and management proposals, subject to a reasonable condition (no. 9) which will ensure a sustainable level of parking, certainty for residents, and an appropriate modal shift to alternative transport forms.

### Public Open Space

- Generous communal and play facilities are proposed on site, well in excess of minimum requirements. As per condition no. 22 of the DCC decision (omission of entrance gates), there is no barrier to public access to this space.
- The site does not lend itself to public open space provision and the applicant is willing to make a financial contribution towards same.
- The DCC planner's report has deemed a financial contribution acceptable having regard to the site constraints and the proximity to other public open spaces.

### Tree loss

- Given the proposal to demolish the existing house, tree loss will not impact on its character or setting.
- The loss of mostly Category 'C' and 'U' trees is necessary due to the site constraints, servicing requirements, and the need to achieve the appropriate density.
- The further information response outlined that there are no Category 'A' trees; 5 out of the 6 Category 'B' trees will be retained; as will 10 no. Category 'C' trees. Thereafter, many of the trees are unsuitable for retention.
- Every effort has been made to retain trees and additional planting will compensate for any loss.
- It is not possible to retain tree no. 50 as set out in the 1<sup>st</sup> party appeal.

### Boundary fences

- No existing boundaries will be removed, and no new boundaries will be erected on lands outside the applicant's ownership. The Board may rely on section 34(13) of the Act of 2000 in this regard.

- The landscape approach will retain and augment existing boundary planting.
- A high-quality steel fence is proposed to unify the appearance of the diverse boundary treatment. Associated planting would provide screening and the fence design would echo other design details within the scheme.

#### Depreciation of property value

- The application has demonstrated that no significant adverse impacts are likely to arise for the surrounding area or neighbouring property values.
- It would provide much needed additional housing in accordance with local and national standards.
- The appeal has not provided any empirical evidence of any unreasonable impacts that would depreciate local property values.
- Housing development and renewal tends to support local infrastructure investment and positively impacts on property value.

#### Precedent

- Each case should be dealt with on its merits.
- National policy seeks to achieve increased housing density, as is reflected in the emerging housing trends in the area.
- The application has demonstrated compliance with the objectives and standards outlined in national and local policy.
- The Draft Development Plan 2022-2028 (Appendix 3) supports increased density and height, including density within the range of 60-120 units per hectare.
- The proposal would not set a negative precedent but would provide optimal development at a suitable location in accordance with relevant policy and guidance.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. This case includes a First-Party appeal against condition no. 21, as well as three Third-Party appeals against the DCC decision to grant permission. Therefore, notwithstanding the provisions of section 139 of the Planning and Development Act 2000 (as amended) regarding the limited consideration of appeals against conditions, the determination of the case as if it has been made to the Board in the first instance is required. Therefore, I will carry out a *de novo* assessment of this case, including the provisions of condition no. 21, where relevant.
- 7.1.2. I acknowledge that the original scheme was amended as per the applicant's further information response. Unless otherwise stated, my assessment and any references hereafter to the 'proposed development/scheme' are based on the revised scheme submitted as further information, that being the scheme on which the DCC decision is based.
- 7.1.3. I have examined the application details and all other documentation on file, including all of the submissions received. I have inspected the site and have had regard to relevant local/regional/national policies, including Ministerial Guidelines which set out Specific Planning Policy Requirements (SPPRs).
- 7.1.4. The site is zoned 'Z1 – Sustainable Residential Neighbourhood', and I am satisfied that there is no objection in principle to residential development on the site. I consider the main issues arising from this case relate to the following:
- Demolition of Glenavon House
  - The height and quantum of development proposed
  - Standard of development proposed
  - Impacts on surrounding properties
  - Daylight and Sunlight
  - Traffic and Transportation
  - Tree Loss & Biodiversity

- Building height/scale and visual impact.

## 7.2. Demolition of Glenavon House

- 7.2.1. The appeals raise concerns about the demolition of Glenavon House on grounds of sustainability and its cultural and heritage importance, and many submissions have suggested that the house warrants inclusion on the Record of Protected Structures (RPS). By way of update, I can confirm that the RPS was reviewed by DCC as part of preparation of the new Development Plan 2022-2028 and Glenavon House has not been included as a protected structure. Similarly, it is not within an Architectural Conservation Area (ACA) or any other designated conservation area. Notwithstanding this, I acknowledge that some buildings may still warrant retention, and this is addressed in various sections of the Development Plan.
- 7.2.2. From a 'Climate Action' perspective, policy CA6 and section 15.7.1 support the retention and reuse of existing buildings having regard to the 'embodied carbon' of existing structures and the additional use of resources and energy arising from new construction. In my opinion, this approach is more particularly relevant to replacement proposals of a similar scale. In cases such as the current appeal case, where an existing dwelling would be replaced by a development of much larger scale, a wider consideration of sustainability and other planning objectives is required. The proposed development involves a total of 44 apartments, and it can be said that Block A (12 units) would effectively replace the existing single dwelling.
- 7.2.3. The application includes an 'Energy and Sustainability Statement' which outlines the fabric and services specification strategy. It has been designed to meet the Part L 2019 Nearly Zero Energy Buildings (NZEB) standard, and the 'Be Lean, Be Clean, Be Green' principles of the energy hierarchy have been incorporated throughout a passive fabric first approach. The statement includes calculations to confirm that the proposal would achieve compliance with the Part L 2019 NZEB standard.
- 7.2.4. In conclusion regarding the sustainability issue, I consider that the proposed development would effectively replace the existing dwelling with 12 new dwellings designed to a high energy efficiency standard at an accessible site. This would be consistent with planning policy and the Climate Action Plan 2023 (as outlined in section 5 of this report), which aim to increase housing density in appropriate

locations, to reduce carbon emissions from residential development, and to reduce transport emissions through integrated land use policy. I acknowledge that the sustainability of the existing dwelling could be improved through retrofitting.

However, I do not consider that this would provide such over-riding benefits to warrant the refusal/omission of 12 new energy efficient dwellings.

- 7.2.5. The cultural and heritage elements of the Development Plan also recognise the potential for circumstances where structures other than protected structures would warrant retention.
- 7.2.6. Policy BHA5 outlines a presumption against the demolition or substantial loss of any building or other structure assigned a 'Regional' rating or higher by the National Inventory of Architectural Heritage (NIAH). As is discussed extensively on the file documentation, it remains the case that the house is not included on the NIAH and, therefore, this policy does not apply. Furthermore, I do not consider it appropriate to speculate on whether or not the structure was mistakenly omitted from the survey.
- 7.2.7. Policy BHA6 outlines a similar presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. The application is accompanied by reports by Lindsay Conservation Architects (LCA) which demonstrate that the house was built in the period 1918 to 1921. This does not appear to be contested and, accordingly, this policy does not apply.
- 7.2.8. In a more general approach, Policy BHA15 encourages the protection of exemplar twentieth century buildings and section 15.15.2.4 seeks the retention of structures of architectural, historical, archaeological, artistic, cultural, scientific, technical, social and/or local interest or those that make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.
- 7.2.9. The applicant's Conservation Comment (by LCA) considers these criteria, the most relevant being architectural, historical and cultural in this case. I would agree that the building design can be described as retrospective and conventional, and that it could not be described as a distinctive or exemplar building. And while I acknowledge the third-party contentions about the historical and cultural association with Thomas Ryan, I am satisfied on the basis of the information available that his residence in the house was significantly detached from the events of 'Bloody Sunday' and his

subsequent writings on the subject. The house itself is substantially screened by existing development and tree cover. In the public realm, it is really only visible from the site entrance and does not have a significant impact on the character and identity of the streetscape.

- 7.2.10. Having regard to the foregoing and the various heritage policies and criteria relevant to demolition proposals, I do not consider that there is an adequate basis to justify a fundamental objection to the demolition of Glenavon House. However, any such proposal is obviously subject to the suitability of the replacement proposal, which will be assessed in the following sections.

### **7.3. The height and quantum of development proposed**

- 7.3.1. A total of 44 apartments is proposed on a stated site area of 0.39 hectares. The proposed gross floor area of 4,466m<sup>2</sup> equates to a plot ratio of c. 1.14:1, which is within the lower end of the Development Plan range for outer residential areas (i.e. 1.0-2.5). Based on a building footprint of 1318m<sup>2</sup>, the proposed site coverage (33%) is significantly lower than the indicative standard set out for outer residential areas (i.e. 45% to 60%).
- 7.3.2. The density equates to c. 112 units per hectare (uph), which would be consistent with the Development Plan support for a range of 60-120 uph in the outer suburbs. However, it is acknowledged that this is at the higher end of the range and is significantly higher than surrounding development.
- 7.3.3. Given the relatively low levels of plot ratio and site coverage, it is clear that the higher density levels are primarily achieved through an increased building height. This is a key issue in the appeal and the Board should note that the 16-metre height limit that applied in the previous Development Plan (2016-2022) no longer applies. The current Development Plan (2022-2028) promotes a minimum of 3 to 4 storeys in the Outer City, with greater heights being considered on a case-by-case basis. Furthermore, development of 5 to 8 storeys is promoted in key areas, including the catchment areas of major public transport corridors such as BusConnects/Core Bus Corridors (CBCs) and Metrolink.
- 7.3.4. The proposed development ranges from 4 to 6 storeys and would be within the catchment area of bus routes 4, 9, 11, and 13, which run frequent services to the city



centre vis St Mobhi Road and Griffith Avenue. The area also adjoins the BusConnects 'E Spine' route which will provide services to the city centre every 4 minutes during peak times. It also adjoins the N2 Orbital route which would connect varying rail services at Heuston, Broombridge, and Clontarf at a frequency of 15 mins. And although the Metrolink project has a longer delivery timeframe, it is important to note that it would also run through the area and would include a station within 1km of the site at Griffith Park.

- 7.3.5. Having regard to the foregoing, I consider that the proposed development is consistent with Development Plan policies which seek to achieve a minimum of 3-4 storeys in the Outer City, while also allowing 5-8 storeys within the catchment area of public transport corridors. This approach is clearly qualified by the need for further assessment of suitability, including the performance criteria set out in Table 3 of Appendix 3 of the Development Plan. However, in principle terms, I am satisfied that the proposed development would not contravene any specific building height provisions of the Development Plan.
- 7.3.6. With regard to national policy, it is noted that the Development Plan supports sustainable residential densities in accordance with the guidance of the 'Sustainable Residential Development Guidelines'. Section 5.8 of the Guidelines recommends that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station (minimum 50 per hectare, with highest densities at rail/bus stops). This site is located within 450 metres/5-mins walk of bus stops along St Mobhi Road and, accordingly, I consider that the location is suitable for higher densities in accordance with the provisions of the Sustainable Residential Development Guidelines. I acknowledge that section 5.9 of the Guidelines highlights the need for infill development to strike a balance with the reasonable protection of adjoining dwellings and the established character of the area.
- 7.3.7. The '*Urban Development and Building Heights Guidelines*' also supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.

- 7.3.8. In this case, I note that the surrounding area mainly contains buildings of 2 and 4 storeys. Therefore, the proposed 4 to 6-storey building would not be in accordance with prevailing building height. As previously outlined, the proposed development would not contravene any specific building height provisions of the Development Plan and would not, therefore, rely on SPPR 3 of the Building Height Guidelines. Nonetheless, given the proposed exceedance of prevailing heights, I will consider the relevant provisions of Section 3 of the Guidelines. This will be outlined further in section 7.9 of this report.
- 7.3.9. In conclusion, I consider that the proposed development is consistent with Development Plan policies and standards in relation to height and density and would be located on a site with good transport accessibility, which would be suitable for increased density/height in accordance with the Sustainable Residential Development Guidelines and the Urban Development and Building Heights Guidelines. Therefore, there is no fundamental objection to the height and quantum of development proposed, subject to further assessment as outlined in the following sections.

#### **7.4. Standard of development proposed**

- 7.4.1. The standard of residential development is considered in this section, particularly with regard to the quantitative and qualitative standards outlined in the Development Plan and the 2020 Apartments Guidelines. At the outset it is noted that some third-party concerns have been raised about the nature of the scheme and the potential for an excess of rental units, including the potential for a Build-to-Rent (BTR) model. However, it should be noted that this is not a BTR proposal, and it shall not be assessed as such.

##### Mix of Units

- 7.4.2. It is proposed to provide 14 no. 1-bed units, 24 no. 2-bed units, and 6 no. 3-bed units. The Development Plan states that SPPR 1 of the Apartments Guidelines applies to the entire city area outside of the North Inner City and the Liberties. SPPR1 sets out a requirement for a mix of apartment sizes / types, including a maximum 50% for 1-bed/studio units. The proposal for 14 no. 1-bed units would not exceed 50% of the units as per SPPR 1. No 2-bed 3-person units are proposed and

therefore section 3.7 of the Guidelines does not apply. Accordingly, I have no objection to the dwelling mix proposed.

#### Floor Areas & Dimensions

- 7.4.3. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. The application includes a Housing Quality Assessment (HQA) Schedule, and all proposed units exceed the minimum overall apartment floor areas as set out in SPPR 3 of the Apartment Guidelines. Furthermore, with regard to 'Safeguarding Higher Standards', the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. The HQA outlines that all of the proposed units would exceed the minimum floor areas by at least 10%.
- 7.4.4. I have also reviewed the other requirements of Appendix 1 of the Apartment Guidelines for living/kitchen/dining areas, bedrooms and storage. I am satisfied that the quantitative areas required are satisfactorily provided in accordance with the flexibility allowable under the Guidelines, including the requirement to provide additional floor area for duplex units. The proposed ceiling heights are 2.7m for ground floor levels and 2.5m for upper floors, which meets the requirements of the Guidelines (i.e. at least 2.7m and 2.4m respectively).
- 7.4.5. All of the proposed units would also be provided with private amenity spaces which generally exceed the minimum area requirements to a significant extent. The spaces are at least 1.5m deep and are suitably accessed off the main living areas in accordance with the requirements of the Guidelines. A high majority of the spaces face south or west and would benefit from good sunlight levels. The amenity areas would be at least 10 metres from the western site boundary and would benefit from good privacy levels. The distance to the southern site boundary ranges from 5-7 metres, with the distance to the opposing Mobhi Court facade being c. 13 metres. However, tree no. 22 would be retained as suitable screening at this location, and I am satisfied that this will satisfactorily mitigate any privacy concerns for the proposed units.

### Aspect

- 7.4.6. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. SPPR 4 of the Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, while at least 50% will be required in suburban or intermediate locations. The proposed development includes 38 (or 86%) dual-aspect units, with none of the single-aspect units facing north. This would significantly exceed the requirements as per SPPR 4 and I have no objection in this regard.

### Access, security and Lift / Stair Cores

- 7.4.7. Access is proposed through a variety of arrangements including own-door access at ground floor level, shared internal cores, and shared external galleries. The proposed arrangements maintain an adequate level of privacy and amenity for the prospective occupants. The access routes are not excessively long, and they would be suitably overlooked by other properties. The maximum number of units per floor per core would not exceed 12 as per SPPR 6 of the Guidelines.

### Communal Open Space

- 7.4.8. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. In accordance with Appendix 1 of the Guidelines, the proposed development requires a total communal open space area of 292m<sup>2</sup>. The application proposes that there would be a total of 881m<sup>2</sup> 'communal outdoor amenity' space, together with c. 500m<sup>2</sup> of 'landscaped visual amenity' space. I would acknowledge that some of this space is peripheral/incidental and would not be easily usable. However, the main area to the west of Blocks B and C alone would provide more than 300m<sup>2</sup> of quality communal space, which would be complemented by other smaller, ancillary spaces. The areas would be suitably accessible, landscaped, and overlooked, and would provide an appropriate level of amenity for such communal spaces.
- 7.4.9. For schemes of 25+ units with two or more bedrooms, the Guidelines recommend that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. The proposed development has 30 no. 2-bed+ units and includes a small toddler play

area (c. 50m<sup>2</sup>) which is suitably located. I am satisfied that this is acceptable given that the proposed development only marginally exceeds the threshold of 25+ units.

#### Other communal facilities

- 7.4.10. The *Planning Guidelines for Childcare Facilities* (2001) recommend the provision of one child-care facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. This does not apply to the proposed development of 44 units.
- 7.4.11. Regarding refuse storage, proposals include a bin store within the basement level (total area of c. 28.3m<sup>2</sup>). The store is adequately accessible to each apartment stair/lift core and would be serviced via the internal road network. The planning authority has not raised any objection in this regard, and I am satisfied that the facilities can be designed to address the criteria set out in Appendix 7 of the Development Plan and section 4.8 and 4.9 of the Apartment Guidelines. An Operational Waste Management Plan should be agreed in the event of a grant of permission.
- 7.4.12. Regarding the question of community/social facilities in the wider area, the Development Plan (Policy QHSN48 and s. 15.8.2) requires a community and social audit for residential proposals in excess of 50+ units. The application includes a Community Infrastructure Audit covering a study area of a 1500m radius. It outlines the demographic profile and identifies existing facilities including education/training, health, sports & recreation, social/community services, arts & culture, faith, and others. The audit outlines that the urban structure is strong and is served by a good range of services, including public transport. The proposed development would support local services but would represent only a minimal increase on the demand for services in the wider community. Therefore, having regard to the 'residential' zoning of the site, the limited scale of the development, and the scope of community/social facilities in the area, I am satisfied that the proposed development would be served by a suitable community infrastructure which would be consistent with the ongoing growth of the area.

#### Public Open Space

- 7.4.13. In addition to the foregoing open space requirements, the Development Plan (s. 15.8.6) requires a provision of 10% of the site area as public open space, or otherwise a financial contribution in lieu of such provision (as per s. 15.8.7 of the

Plan). I note the third-party concerns raised in this regard, as well as some reported DCC concerns on the matter. Having regard to the secluded, backland nature of the site, with only limited frontage onto the public road, I do not consider that the provision of meaningful public open space is viable in this case. In my opinion, the development would always read as being 'private' and any public open space is unlikely to be suitably accessed or used by the public. Furthermore, I note the location of the site within 500m of large public open spaces at the National Botanic Gardens and Albert College Park. Accordingly, I have no objection to the payment of a financial contribution in lieu of open space. I also note that the DCC Development Contribution Scheme already covers the requirement for a contribution of €4,000 per unit in such cases. Accordingly, section 48 (2)(c) of the Act need not apply.

#### Conclusion on residential standards

7.4.14. Having regard to the foregoing, I am satisfied that an appropriate mix of units is included and that the proposed units would be sized, orientated, and designed in accordance with the requirements of the Apartment Guidelines. Generous levels of private and communal amenity space have been provided, and other communal services/facilities have been provided to an acceptable extent. The absence of public open space is considered acceptable having regard to the nature and location of the site. Further assessment of development standards, including daylight/sunlight and traffic/transport issues, is outlined in later sections of this report.

#### **7.5. Impacts on surrounding properties**

7.5.1. It is noted that the third-parties raise concerns that the proposed development would give rise to adverse impacts on surrounding properties by reason of traffic congestion, overlooking, overbearing, overshadowing, construction disturbance, and structural impacts. The questions of overshadowing and traffic/access will be dealt with separately in later sections of this report.

#### Overlooking & privacy

7.5.2. The Development Plan (s. 15.9.17) acknowledges the need to protect the privacy of existing properties. Consistent with the Sustainable Residential Guidelines, it recognises the traditional separation distance of 22m for opposing upper floor windows, as well as the acceptability of reduced distances in certain instances.

- 7.5.3. To the north of the site, Block A would be more than 20 metres from Glenavon Court. A limited number of windows would overlook the communal area to the rear of Glenavon Court, as is currently the case within the development. I do not consider that there would be any unacceptable impact on this property.
- 7.5.4. To the northeast of the site is Hillcrest Court. The proposed Block A includes upper floor windows within c. 6.5 metres of the shared boundary and within c. 22.5 metres of the nearest west-facing window. The upper floors of Block A also contain external access galleries which extend c. 2 closer to the eastern boundary. I do not consider that these gallery areas would be likely to be used as amenity space or gathering to any significant extent. Hillcrest Court includes private rear balconies/terraces which mainly face southwards, as well as a communal amenity space.
- 7.5.5. Within Hillcrest Court, I am satisfied that any west-facing windows are adequately separated from Block A. The balconies/terraces would also be either adequately separated, screened, and/or have only a limited, angled relationship with Block A. And while the proximity of Block A to the communal space is acknowledged, I do not consider that such spaces are as sensitive to privacy impacts. Accordingly, I do not consider that there would be any unacceptable impact on this property.
- 7.5.6. To the east of the site are the rear gardens and facades of the semi-detached dwellings along St Mobhi Road. The gardens are significant in length, meaning that the rear facades of the houses are c. 30-40 metres from the shared boundary and c. 40m+ from the east facade of the proposed development. Accordingly, I am satisfied that there would be no significant impacts on the internal spaces of the existing houses themselves.
- 7.5.7. Regarding the rear gardens, I acknowledge that there would be upper floor windows and galley access within c. 7-8 metres of the shared boundary. As previously outlined, I consider that the galley access will be primarily used for circulation and would not result in significant privacy impacts. The east-facing window arrangement incorporates significant mitigation in the form of planting / screening. And in my opinion, the severity of any impact is further mitigated by the sheer size and length of the rear gardens, which would retain high levels of privacy and amenity to the immediate rear of the houses. Accordingly, I consider the separation distance to be adequate to prevent any unacceptable impacts on the St Mobhi Road properties.

- 7.5.8. To the south of the site is the Mobhi Court development and the rear gardens of The Haven. The rear gardens of The Haven are already overlooked by the Mobhi Court properties, and I do not consider that the proposed development would significantly exacerbate this situation.
- 7.5.9. The north façade of Mobhi Court contains windows within c. 3-7 metres of the shared boundary. The proposed development (Block C) would generally provide improved setbacks on the opposite side with windows setback at least 7 metres and balconies setback at least 5 metres. I would accept that the 3 upper floors of Block C would look over Mobhi Court, rather than into it. At the lower levels, the proposed development would be c. 13 metres from the Mobhi Court windows. It is proposed to retain tree nos. 22 and 24 along the shared boundary and to carry out additional planting within the southern elevation and along the shared boundary, which would provide mitigation in the form of natural screening. Having regard to these measures and the need to accommodate infill development at such locations, I consider the separation distance to be adequate to prevent any unacceptable impacts on the Mobhi Court properties. The communal car park is not sensitive to impacts and the communal space to the west of the block would not be significantly affected.
- 7.5.10. To the west, the Clonmore Court properties are angled towards the proposed development. Therefore, there is generally no direct overlooking of windows, apart from the southwest facing windows of Block B which would oppose the northeast facing windows of the southern block in Clonmore Court. The proposed development is generally well setback (at least 10 metres) from western site boundary and Block B would be setback at least 20 metres from the opposing façade of Clonmore Court. Several significant trees would be retained along the western site boundary and additional planting will be carried out, which will mitigate any overlooking impacts. I acknowledge the communal spaces to the rear (east) of the Clonmore Court site, but I do not consider that such spaces are overly sensitive to privacy impacts. Having regard to the above and the need to accommodate infill development at such locations, I consider the separation distance to be adequate to prevent any unacceptable impacts on the Clonmore Court properties and associated spaces.



### Overbearing Impacts

- 7.5.11. I note that the third-parties have raised serious concerns about the overbearing visual impact of the proposed development and contend that the visual impact from private properties has not been adequately considered. Overbearing impacts are generally dependent upon the scale and height of a proposed development and its proximity and orientation in relation to existing development.
- 7.5.12. The northern façade of Block A is 4 storeys in height and is not of excessive width or scale. It is well distanced from Glenavon Court and would not result in any excessive overbearing impacts.
- 7.5.13. To the east of the site, the level differences and interface between the proposed development and existing properties vary. Hillcrest Court generally faces southwards, and the adjoining Block A would generally appear as 3 storeys above existing ground levels. I do not consider that this would result in any unacceptable overbearing impacts. For the Mobhi Road properties, Block A would again generally appear as 3-storey, while the appearance of Blocks B and C would rise to 4-5 storeys (above existing ground levels).
- 7.5.14. While I acknowledged that the proposed height exceeds the prevailing building height, it must again be noted that the eastern façade of the development is significantly distanced from the Mobhi Road houses. I am satisfied that this significant separation distance would satisfactorily mitigate any concerns about the height of the development as viewed from the houses and gardens.
- 7.5.15. In addition to building height, I note the third-party concerns about the overall length of the development and its contribution to the cumulative scale and bulk of the building. I would acknowledge that the eastern façade is of significant scale in relation to the rear view from the Mobhi Road properties. The elevational treatment of this façade is not as well considered as the western façade, which is understandable given that it is to the rear of the site. The visual impact would also be somewhat mitigated by the retention of tree nos. 15-17 and additional planting. Ultimately, I acknowledge that the Mobhi Road properties currently benefit from an attractive outlook to the rear, and that this would be significantly altered as a result of the proposed development. However, given the significant separation distances that exist, and the design and screening proposals included, I consider that the impacts

would be acceptable in this urban context and would not warrant a refusal of permission.

- 7.5.16. At the southern end of the site, I note that the rear of the 'Haven' properties face eastward away from the proposed development. The rear gardens would still enjoy generally unobstructed outlooks to the north and would not suffer any unacceptable overbearing impacts. As previously outlined, the 6-storey Block C would mainly interface with the 3-storey Mobhi Court property and associated spaces. The southern façade of Block C is not excessive in width and, therefore, the main issue in this interface relates to building height.
- 7.5.17. I acknowledge that there would be a significant transition from 3-storey to 6-storey and the DCC decision which requires the removal of one floor. However, given the proximity of Block C and the retention of tree nos. 22 and 24, I do not consider that the upper floors of Block C would be overly apparent or overbearing when viewed from the north-facing windows of Mobhi Court. The communal car parking area would not be overly sensitive to visual impact and the communal garden space to the west would continue to benefit from its outlook to the north. Therefore, I do not consider that the proposal would result in any unacceptable overbearing impacts on Mobhi Court, nor that the removal of one floor from Block C would be warranted in this respect.
- 7.5.18. As previously outlined, Clonmore Court to the west is well distanced from the proposed development and generally faces away from it, albeit that there are southeast and northeast facing facades. Similar to the appeal site, the levels in Clonmore Court fall to the south and building height consequently increases from 3 to 4 storeys. The proposed development would generally be 1 storey higher than Clonmore Court (although Block C would be 2 storeys higher) but I am satisfied that the impact of increased height is satisfactorily mitigated by the significant separation distance. And while it is again acknowledged that the western facade is of significant length and scale, I am satisfied that the elevational treatment is well considered and that significant tree retention along the western site boundary will satisfactorily mitigate any visual impacts. Therefore, I do not consider that the proposal would result in any unacceptable overbearing impacts on Clonmore Court.

### Construction Impacts

- 7.5.19. I note that 3<sup>rd</sup> party concerns relate to construction noise/vibration, dust, and lighting etc., as well as the potential to cause structural damage or encroachment on adjoining property.
- 7.5.20. At the outset I would highlight that the temporary disturbance impacts associated with any urban construction project are generally common and inevitable. And notwithstanding the acknowledged sensitivity of the surrounding residential properties, there is also an accepted need to facilitate the redevelopment of accessible infill sites like this. Ultimately, I consider that impacts relating to noise, vibration, dust, and lighting etc. are dependent upon construction management practice. I note that the applicant has submitted an Outline Construction Management Plan and I am satisfied that these proposals have been prepared in accordance with best practice. Therefore, subject to the appointment of a contractor and agreement of final plans with the planning authority, I am satisfied that construction-related impacts can be satisfactorily agreed and mitigated.
- 7.5.21. In relation to potential structural implications, I note that the Outline Construction Management Plan addresses the basement construction and the need for bulk excavation. Furthermore, the application and first-party appeal documents have consistently clarified that no perimeter boundaries or adjoining land will be affected, and all works will be confined to the appeal site. Ultimately, I would accept that construction methodology would only be finalised once a contractor is appointed, and the impacts would be largely dependent upon construction methodology and management. At this stage, I am satisfied that the applicant has adequately considered the potential structural impacts on surrounding properties. It will be the developer's responsibility to ensure that suitable monitoring and mitigation measures are implemented and any damage that might occur to adjoining property would be a civil matter for resolution between the relevant parties. Furthermore, regarding ownership/boundary issues, the Board should note that, as per section 34(13) of the Planning Act 2000, a person is not entitled solely by reason of a permission to carry out any development.

## Conclusion

7.5.22. I have considered the potential overlooking, overbearing, and construction-related impacts of the proposed development on the surrounding properties. Having regard to the foregoing, I do not consider that the proposed development would result in any unacceptable impacts on these grounds. I note the concerns raised regarding the devaluation of property in the vicinity. However, no explicit evidence has been submitted of any such impact. Furthermore, having regard to the assessment set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. Further potential impacts such as daylight/sunlight and traffic are discussed in the following sections of this report.

## 7.6. **Daylight/Sunlight**

### Policy

- 7.6.1. Although the proposal does not rely on SPPR 3 of the Urban Development and Building Height Guidelines (2018), I note that Section 3.2 of the Guidelines states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- 7.6.2. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

- 7.6.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities *'should have regard'* to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.
- 7.6.4. The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance *'should be followed in this regard'*.
- 7.6.5. The Development Plan also acknowledges the importance of daylight and sunlight to the internal and external spaces of both existing and proposed development. Appendix 16 of the Development Plan highlights a lack of clarity in standards and guidance and outlines a guide for the carrying out of daylight/sunlight assessments in an attempt to offer clarity on the required technical approach, appropriate standards, and required information. The guide does not outline exact, city wide, expected/accepted results and states that proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location.
- 7.6.6. The Development Plan acknowledges that guidance and standards are going through a transition period, including the superseding of BS 8206-2 with BS EN

17037. It states that BR 209 has not yet been updated and concludes that the planning authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037, as well as any revised version of BR 209 to take precedence when issued.

- 7.6.7. Following the publication of the Draft Development Plan, I note the publication of a new (3<sup>rd</sup>) edition of the BRE Guide in June 2022. The adopted Development Plan has not been amended to reflect this. I also note the updated European Standard (EN 17037:2018 Daylight in Buildings) and the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK). However, I am satisfied that BR 209 (2011) and BS 8206-2 (2008) remain relevant as they are the standards and guidance referred to in the relevant national guidance documents such as the Building Heights Guidelines and the Apartments Guidelines.
- 7.6.8. I would also highlight that the standards described in the BRE (BR 209) guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. Similarly, I am also satisfied that the other European and British Standard documents are not suitable for rigid application of standards or limits.

#### Information & Assessment

- 7.6.9. The applicant's further information response included an updated 'Daylight and Sunlight Assessment Report' prepared by 3D Design Bureau. The report states that the BRE Guide (2011) and BS 8206-2:2008 are used as the primary reference documents, while the European Standard (EN 17037:2018) and British Standard (BS EN 17037:2018) are addressed where relevant. Having regard to the evolving policy context previously outlined, I consider this to be an acceptable approach which is based on authoritative standards.

7.6.10. I have considered the reports submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011), BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting), the European Standard (EN 17037:2018), and the British Standard (BS EN 17037:2018). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions received, and the planning authority comments in relation to daylight and sunlight.

#### Daylight standards within the proposed units

7.6.11. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working plane, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen (LDK) area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and kitchen the minimum ADF should be 2%

7.6.12. The applicant's study considers the predicted ADF to the proposed units based on targets of 1% for bedrooms and a variable target of 1.5% or 2% for combined LDK areas. The ADF values for all of the proposed bedrooms are shown to exceed the 1% target value. Regarding combined LDK areas, I would accept that the higher 2% ADF standard (as per BS guidance) is more appropriate in a traditional house layout and is a significant challenge to meet in apartment developments. Notwithstanding this, all but one of the LDK areas in this case would meet the 2% standard. The room which would not comply (Unit A-G-05) would have a value of 1.86%, which would comfortably exceed the lower 1.5% standard. Furthermore, I note that alternative compensatory design solutions have been included for this unit, including an attractive dual aspect, generous private open space, and a floor area which exceeds minimum standards by more than 10%.

7.6.13. Section 7.3 of the applicant's report assesses 'Alternative Daylight Standards' based on the European Standard (EN 17037:2018) and the British Standard (BS EN 17037:2018). It finds that all rooms would meet the assessment criteria outlined in the British Standard (BS EN 17037:2018), which is that 50% of the room meets target lux levels for half of the daylight hours (i.e. 200 lux for kitchens, 150 lux for living rooms, 100 lux for bedrooms, with higher targets applying to dual purpose rooms). And while all rooms do not meet the European Standard (EN 17037:2018), the applicant's report highlights the difficulties of compliance with this standard. The European Standard does not distinguish between the function of rooms and requires that 300 lux be achieved across 50% of the room for half of the daylight hours, with no less than 100 lux being achieved across 95% of the room.

7.6.14. In conclusion, I have considered the predicted ADF values with reference to the various standards. I am satisfied that the proposed development would comply with the vast majority of standards and that the deficiencies in respect of Unit A-G-05 are relatively minor and adequately compensated. I would accept the applicant's reservations about the challenges in complying with the European Standard and I am satisfied that the application has demonstrated adequate levels of daylight within the proposed apartments.

#### Amenity spaces within the proposed development

7.6.15. Section 7.1 of the applicant's report considers sunlight on the ground in the proposed outdoor amenity areas. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21<sup>st</sup> of March.

7.6.16. I note the main usable communal areas (i.e. to the west of the site) demonstrate complete compliance with the standard, and that the areas which would not comply are largely small peripheral areas of the site. Accordingly, I am satisfied that the amenity space will benefit from a high level of sunlight availability when compared to the BRE recommendations.

#### Sunlight to existing buildings

7.6.17. Section 3.2 of the BRE Guidelines highlights the need for care in safeguarding sunlight to existing dwellings with living room windows facing within 90° of due south. It states that sunlight to such windows will be adversely affected if they would receive



less than 25% of Annual Probable Sunlight Hours (APSH) or less than 5% of APSH between 21<sup>st</sup> September and 21<sup>st</sup> March (WAPSH), and receive less than 0.8 times its former APSH or WAPSH values, and has a reduction in sunlight over the whole year greater than 4% of APSH.

- 7.6.18. Section 6.2 of the applicant's reports examines the impact on surrounding properties. It assesses 114 no. windows and demonstrates that 113 of these windows (99%) would comply with the BRE guidance standards. In the case of Glenavon Court and some windows in Clonmore Court, the sunlight levels would be improved due to the removal of trees. The one window which would not comply (No. 31b Mobhi Road) is a relatively small window immediately adjoining a perpendicular extension to its southern side, resulting in a low level of sunlight. I would accept that the proposed development would further reduce these sunlight levels, particularly during the winter when the impact is described as 'profound' in the applicant's report. However, I would accept that the impacts are largely attributable and exaggerated due to the existing situation and, accordingly, I do not consider that the proposed development would have any unacceptable effects on sunlight to the surrounding windows.

#### Daylight to existing buildings

- 7.6.19. Section 6.1 of the applicant's report contains a 'Vertical Sky Component' (VSC) analysis for the surrounding windows. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight.
- 7.6.20. Of the 167 windows assessed, the applicant's report demonstrates that 152 windows would comply with BRE guidance standards and would have an 'imperceptible' effect. Again, it is noted that values for Glenavon Court and Clonmore Court would be improved in many cases. The remaining 15 windows are confined to the northern façade of 16-30 Mobhi Court and impacts are deemed to be 'not significant' in 4 cases, 'slight' in 8 cases, 'moderate' in 1 case, and 'significant' in 2 cases.

7.6.21. I would acknowledge that the 'moderate' to 'significant' impacts are limited to small, recessed windows at a corner of the façade in close proximity to the site boundary. I acknowledge that these windows may not serve habitable rooms and that they already have low baseline VSC values due to their compromised location. Therefore, having regard to the limited areas that would be significantly affected and the existing baseline situation, I do not consider that the proposed development would result in any unacceptable impacts on Mobhi Court. Furthermore, I do not consider that the removal of one floor from Block 6 (as per condition 21) would be warranted on the grounds that it would significantly improve this situation.

#### Adjoining amenity spaces

7.6.22. Section 6.3 of the applicant's report examines the effect on sun on the ground in adjoining gardens. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21<sup>st</sup> of March, and that, if the proportion of such an existing area is not reduced to less than 0.8 times its former value, the impact is not likely to be noticeable

7.6.23. The report demonstrates that all relevant adjoining spaces would comply with the BRE guidance standards, with Glenavon Court experiencing significant improvements to sunlight levels. I note that an overshadowing study has been included which shows impacts on surrounding properties at various times of the day and year. And while third-parties have highlighted concerns in this regard, I am satisfied that the 2-hour period for the 21<sup>st</sup> March is representative of average impacts over the course of the year in accordance with BRE guidance. The proposed development would comply with this guidance, and I am satisfied that there would be no unacceptable sunlight impacts on adjoining amenity areas.

#### 3<sup>rd</sup> party submissions

7.6.24. I have considered the issues raised by 3<sup>rd</sup> parties in carrying out this daylight/sunlight assessment and I am satisfied that the applicant has carried out a competent assessment of impacts on the proposed development and neighbouring properties in accordance with the BRE guidance and other standards referenced in this report.

### Conclusions on Daylight/Sunlight

- 7.6.25. I would again highlight that the standards described in the BRE guidelines and other referenced standards allow for flexibility in terms of their application. Furthermore, the proposed development does not rely on SPPR 3 of the Building Height Guidelines with regard to the contravention of Development Plan building height objectives. And while the Guidelines do state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the BRE (2011) and BS 8206-2: 2008 publications, it also states that where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives.
- 7.6.26. I have acknowledged the instances where BRE/BS recommendations are not fully met for both existing properties and the proposed development. However, having regard to the nature of the existing surrounding development; the relatively minor scale of non-compliance with standards; the overall quality of amenity for the prospective residents; and the accessible location of the site; I consider that the standard of the proposed development and its impacts on the availability of sunlight and daylight to existing properties would not result in any unacceptable impacts.
- 7.6.27. I am satisfied that alternative, compensatory design solutions have been incorporated to address the minor deficiencies within the proposed development. Furthermore, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact/infill development. Accordingly, I am satisfied that the proposed development would provide an acceptable level of daylight and sunlight for the prospective residents, and that the limited impacts of the proposed development on surrounding properties are acceptable having regard to the need to achieve wider planning objectives.

## 7.7. Traffic and Transportation

- 7.7.1. In terms of car-parking requirements, Development Plan standards for this area (Area 2 as per Map J) outline that a maximum of 1 space per dwelling applies. I also note that Chapter 4 of the Apartments Guidelines addresses car-parking requirements and states that requirements should be minimised, substantially reduced or wholly eliminated in certain circumstances for higher density apartment developments in 'central and/or accessible urban locations'. Section 4.20 states that these locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services. Consistent with this approach, NPO13 of the NPF and the Building Height Guidelines of 2018 support a performance-driven approach towards land use and transportation.
- 7.7.2. The application proposes 30 no. car parking spaces at basement to serve a total of 44 no. apartments, resulting in a provision of 0.68 spaces per dwelling in compliance with Development Plan policy. I have already outlined the extent of public transport services in the area in section 7.3 of this report and I am satisfied that the site is within an accessible urban location as described in the Apartments Guidelines. Therefore, I have no objection in principle to a lower parking ratio compared to 'maximum' Development Plan standards, and I do not consider that the proposal would lead to overspill parking.
- 7.7.3. In cases of reduced parking standards, the Apartment Guidelines states that it is necessary to ensure, where possible, the provision of an appropriate number of spaces for drop-off, servicing, visitors, and mobility impaired. Provision is also to be made for alternative mobility solutions including car-sharing and cycle facilities, and specific measures that enable car parking provision to be avoided. In this regard I note that drop-off and servicing facilities would be easily accommodated within the site. It has also been confirmed that a car-sharing operator would serve the site and 2 no. spaces have been reserved.
- 7.7.4. The application also includes a Mobility Management Plan which aims to achieve a sustainable travel culture by outlining a travel strategy to support sustainable

transport options. Measures are specified to achieve its objectives and a travel plan coordinator will be appointed to oversee and monitor progress towards targeted modal splits.

- 7.7.5. The applicant has proposed 72 no. cycle spaces, including 60 no. basement spaces and 12 no. spaces at surface level. This would not meet Development Plan and Apartments Guidelines standards which recommend 1 space per bedroom (i.e. 80 spaces) and 1 visitor space per 2 units (i.e. 22 spaces). However, I consider that compliance with these requirements could be easily achieved, and I would have no objection to proposals being agreed by way of condition.
- 7.7.6. Regarding vehicular access and traffic, I note that vehicle auto-tracking and entrance visibility drawings have been submitted. It has been demonstrated that unobstructed visibility sightlines of 59 metres can be achieved from the site entrance and I consider this to be acceptable from a traffic safety perspective in accordance with DMURS (Design Manual for Urban Roads and Streets, Government of Ireland, May 2019).
- 7.7.7. The application includes a Traffic Assessment which is based on the higher numbers of 52 units and 38 car-parking spaces (as originally proposed). Using TRICS data, it estimates maximum peak morning movements of 3 vehicles entering and 9 vehicles exiting, while peak evening movements would involve 8 vehicles entering and 4 vehicles exiting. Based on an estimated peak hour directional capacity of 1470 vehicles on the Ballymun Road, the assessment states that the peak directional flow (i.e. 9 vehicles per hour) would constitute just 0.6% of the assumed capacity of the road. Therefore, it concludes that the traffic impact on the local road network would be very low.
- 7.7.8. I note that the revised scheme submitted as further information reduced the number of units and car spaces, to 44 and 30 respectively. Based on the applicant's assessment, the impact of the proposed development would therefore be even less than 0.6%. Having regard to the limited scale of the development in proportion to surrounding development and traffic volumes, I would agree that the proposed development is likely to have a minimal effect on the capacity of the local road network. Therefore, I am satisfied that no further assessment is required in relation

to the wider network and junction capacity, including the Griffith Avenue / Mobhi Road / Ballymun Road junction.

- 7.7.9. I acknowledge that there have been recent upgrades to the local road network, including the provision of dedicated cycle lanes. However, rather than viewing this as a reduction in vehicular capacity, I consider that these improvements would facilitate a modal shift to sustainable transport modes, as would the further planned transport improvements such as BusConnects and Metrolink. And notwithstanding the extent of other planned residential developments in the area, I am satisfied that the existing and planned transport infrastructure can satisfactorily accommodate the proposed development. Accordingly, I have no objections in this regard.
- 7.7.10. Having regard to the foregoing, particularly the policy provisions and the accessible location of the site in close proximity to public transport connections, I have no objection to the level of car-parking within the proposed development. I consider that the proposal will encourage more sustainable modes of transport and will not result in additional traffic or parking congestion at this location. The applicant has provided bicycle parking spaces in lieu of car-parking and a Residential Travel Plan should be prepared for the operational stage of the scheme. Accordingly, I have no objection in relation to the traffic and transportation impacts associated with parking and access for the proposed development.

## **7.8. Tree Loss & Biodiversity**

- 7.8.1. The applicant's further information response addressed the extent of trees to be felled as part of the proposed development, including an Arboricultural Impact Assessment & Method Statements. It surveyed 47 individual trees and 4 groups of trees and concluded that none were of 'high quality', 6 were of 'moderate' quality', 26 were of 'low' quality, and 19 were of 'poor' quality. A total of 40 trees / groups would be felled, of which only one would be moderate quality (i.e. Tree No. 50).
- 7.8.2. The report classifies the impact as being of a medium to high magnitude, but that this would be reduced through new planting of high-quality trees. Method statements are included to ensure that retained trees are protected during construction.
- 7.8.3. Having reviewed the report and inspected the site, I would not object to the general conclusions reached in the aboricultural assessment i.e. that the vast majority of

trees are of low/poor quality. And while I would accept that the extent of tree removal would significantly alter the character of the site on a short-medium term basis, I do not consider that the trees are of particularly valuable character, and I am satisfied that the proposed replacement landscaping would achieve an arboricultural environment of higher quality. I have also noted that the removal of some trees will improve sunlight and daylight standards to Clonmore Court and Glenavon Court.

- 7.8.4. I would acknowledge that there is some lack of clarity on the precise trees to be retained. The arboricultural assessment (Tree Schedule) indicates that 11 trees would be retained, while the site layout plan indicates that 10 would be retained (Tree no. 46 appears to be removed). Furthermore, the applicant's Planning Report (further information response) indicates that 15 trees would be retained. However, I am satisfied that this matter can be satisfactorily addressed and clarified through a condition of any permission.
- 7.8.5. Tree no. 50 is the only tree of 'moderate' quality to be removed and the applicant has appealed condition 21 of the DCC decision which required its retention. The applicant argues that trenches for water, electricity, etc. will run through the Root Protection Area (RPA), and that the proposed substation, basement, and construction traffic will also encroach on the RPA. It is also argued that there is no scope for the amendment of the design due to site conditions and constraints.
- 7.8.6. I would concur that tree no. 50 is of a relatively higher quality and that it positively contributes to the character of the area given its prominent position at the entrance to the site. I have noted the various constraints cited by the applicant and I would consider that there is scope to amend the scheme to overcome some of the challenges. However, I would accept that there are significant constraints such as the basement excavation which would significantly encroach on the RPA. And together with the cumulative effects of other incursions, I am not convinced that the tree can be retained with any certainty based on the current design and layout.
- 7.8.7. Of course, the scheme could be amended to ensure the retention of the tree. However, I am unconvinced that this would not require significant revisions which may not be specifiable or achievable within the terms of any permission for this case. I would accept that the loss of the tree would certainly be regrettable and, perhaps, the issue should have been addressed more specifically at further information stage.

However, I do not consider that it would warrant a refusal of permission or the attachment of a condition that would jeopardise the viability of the scheme. I also note that the landscaping proposals include replacement planting at this location. Therefore, on balance, I do not consider that condition no. 21 should apply to any permission.

- 7.8.8. Related to the question of tree loss is the impact of the development on biodiversity and wildlife. In this regard the applicant has submitted an Ecological Impact Assessment which evaluates the ecological features (habitats and species) within and adjoining the site. Having reviewed the assessment and inspected the site, I would concur with the conclusion that the site is of local conservation value (lower value) containing a small area of semi-natural habitats of local importance.
- 7.8.9. Regarding the construction phase, the report outlines that tree loss will be largely confined to conifer species which have little value for wildlife, and that the negative effects of the removal of hedgerow, woodland, and scrub would be limited to the local scale (lower value). Similarly, the effects on mammal species, bats, and birds are predicted to be minor negative effects at the local scale. At operational stage, the report identifies the potential for impacts on bats as a result of lighting impacts.
- 7.8.10. The applicant's report proposes a range of mitigation measures, including mitigation by design; the protection of trees; the protection of birds during the breeding season; the protection of small mammals including supervision of clearance/excavation works by an ecologist; and maintenance of connectivity for mammals through gaps in boundary treatment. Tree felling and lighting mitigation measures are included for the protection of bats and an Outline Invasive Species Management Plan is included to avoid the spread of Japanese Knotweed and other invasive plant species. Compensation and enhancement measures are also included, and the report concludes that any residual effects would be minor at the local scale.
- 7.8.11. Having regard to the foregoing and having inspected the site, I am satisfied that the removal of trees would not result in any unacceptable impacts, both in terms of the character of the area and biodiversity. Therefore, subject to compliance with conditions and mitigation measures, I would have no objection in this regard.



## 7.9. Building height/scale and visual impact

- 7.9.1. I acknowledge that the question of building height and scale is a key factor in this appeal case. The planning authority decision requires the removal of one floor from Block C, while the 3<sup>rd</sup> Party submissions also raise significant concerns about the height and scale of the proposed development.
- 7.9.2. As previously outlined, I do not consider that the proposed development would contravene any building height objectives outlined in the Development Plan. However, it is acknowledged that Table 3 of Appendix 3 sets out performance criteria to be used in assessing urban schemes of enhanced density and scale.
- 7.9.3. The Building Height Guidelines sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. In this regard, I am satisfied that the proposal assists in securing the NPF objectives of focusing development on key urban centres and fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres.
- 7.9.4. SPPR 3 of the Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise.
- 7.9.5. In this case, given that there is no contravention of any specific Development Plan building height objectives, the proposal does not rely upon the provisions of SPPR 3. Notwithstanding this, I acknowledge that the proposed development would be significantly higher than the prevailing building height and I consider it appropriate to apply the criteria outlined in Section 3.2 of the Guidelines in the interests of completeness. Furthermore, together with previous assessments in relation to the Apartments Guidelines, the Sustainable Residential Development Guidelines, and other issues outlined in this report, I consider that the application of Section 3.2 will adequately cover the criteria set out in Appendix 3 (Table 3) of the Development Plan. Section 3.2 outlines criteria to be assessed at various scales, as discussed in the following paragraphs.

### City Scale

- 7.9.6. In relation to public transport services, I have already concluded that the site is within an accessible location, and I am satisfied that it is well served by public transport with high capacity, frequent services and good links to other modes of public transport.
- 7.9.7. In terms of integration with the character and public realm of the area, I note that the site is not located within an ACA or other 'conservation area' and there are no protected structures on the appeal site. I acknowledge that there are several protected structures in the wider surrounding area, but I do not consider that the proposed development has the potential to impact on their setting or character due to the significant separation distances involved.
- 7.9.8. The application is accompanied by a Townscape and Visual Impact Assessment prepared by AECOM and a 'Verified Views and CGI' booklet prepared by 3D Design Bureau. They are based on 10 verified viewpoints which compare the proposed development to the existing baseline viewpoint. Where relevant, the studies also account for reduced tree coverage during the winter months.
- 7.9.9. I have reviewed all viewpoints selected and the applicant's assessment, and I would concur that no perceptible impacts would occur in many viewpoints (nos. 5, 7, 9, and 10). Instances where effects are identified are discussed in further detail as follows:
- View 1: The removal of vegetation (including Tree no. 50) would certainly open up the visibility of the site and part of the proposed development would be visible in the background. However, together with existing and proposed landscaping, I consider that the height and scale of the proposed development would appear consistent with that of Clonmore Court in the foreground. I do not consider that there would be any unacceptable impacts.
- View 2: The proposed development would be largely screened by Glenavon House in the foreground and would not significantly detract from the character or amenities of the area.
- View 3: The proposed development would be largely screened by existing development along Ballymun Road and would not significantly detract from the character or amenities of the area.

View 4: The proposed development would be largely screened by Hillcrest Court, existing development along St Mobhi Road, and existing vegetation at this junction. It would not significantly detract from the character or amenities of the area.

View 6: The proposed development would be intermittently visible in the background when viewed between the gaps of semi-detached houses along St. Mobhi Road. However, at this distance and intermittent visibility, the height and scale of the proposed would not significantly detract from the character or amenities of the area.

View 8: I would acknowledge that Block C would constitute a significant insertion in this townscape view. However, despite its 6-storey height, I consider that the height transition is significantly mitigated through its setback location in the distance. Therefore, the height and scale of the development appears to be consistent with the Mobhi Court blocks in the foreground. The further information response included a significant improvement to this southern façade, and I note that existing and proposed planting would help to significantly soften the southern interface of the development. Accordingly, I do not consider that the proposed development would significantly detract from the character or amenities of the area, and I do not consider that the omission of one storey from Block C (as per condition 21) would be justified.

7.9.10. Section 3.2 of the Guidelines also refers to the potential for larger urban redevelopment sites to make positive contributions to place-making. Given the limited size and enclosed nature of the appeal site, I do not consider that it is suitable to incorporate significant new streets or public spaces within the site itself. However, the proposal does include pedestrian/cycle routes and communal spaces which would be publicly accessible. I have acknowledged that the proposed height exceeds the prevailing building height, but I am satisfied that the design incorporates sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the surrounding townscape.

#### District / Neighbourhood / Street Scale

7.9.11. As previously outlined, the proposed development would be on a secluded, backland site which is largely screened by existing development and surrounding vegetation. Due to its setback location, the proposed development would not have a direct impact on the streetscape. It would be only partly visible at intermittent locations in

the surrounding public realm. This limited visibility helps to break down the overall scale and bulk of the development and avoids a monolithic appearance.

- 7.9.12. I would acknowledge that the building is of significant length. However, due to the existing and proposed screening and the angled form of the building, the length would not appear excessive when viewed from near and distant viewpoints. The scale is further reduced by the articulation of each block, including the various angles, the height difference in Block C, and the large opening between blocks A and B.
- 7.9.13. The elevations are further articulated by a network of concrete frames. A wide variety of high-quality materials are proposed to add depth and layers to the facades. Screening materials are proposed along the external balconies and galleries, behind which the apartments are expressed in a mix of brickwork and solid metal panels. Louvred screening elements provide a further layer of elevational detail which adds to the visual interest of the building.
- 7.9.14. The site does not adjoin any key public spaces, inland waterways, or marine frontage, and the Ballymun Road would not be considered a 'key thoroughfare'. However, the proposal would increase activity and improve legibility through the reuse of the existing entrance, including the retention of the gate piers. And notwithstanding the loss of tree no. 50, I do not consider that there would be any unacceptable impacts on the character of the area.
- 7.9.15. A Flood Risk Assessment has been carried out which concludes that the site is outside potential flood zones i.e. Flood Zone C as per the Flood Risk Management Guidelines for Planning Authorities (OPW, 2009). Surface water measures will be adopted to delay and minimise discharge from the site to the public sewer and Irish Water have not objected on the basis of the capacity of the surrounding network. A flood risk 'justification test' is not required given the absence of flood risk and I would have no objections in this regard.
- 7.9.16. Although there are some apartment blocks adjoining the site, the surrounding area is mainly characterised by larger suburban housing units at lower densities. The proposed development would provide a good mix of housing units in a contemporary building, which would positively contribute to the mix of building and dwelling typologies available in the neighbourhood.

### Site / Building Scale

- 7.9.17. As previously outlined, the Guidelines outline that the form, massing and height of the development should be carefully modulated so as to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. In section 7.6 of this report, I have outlined how appropriate and reasonable regard has been taken of quantitative performance approaches to daylight provision 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*'.
- 7.9.18. I consider that the impacts of the proposed development on the availability of sunlight and daylight to both existing and proposed properties would be acceptable having regard to BRE/BS recommendations and would not result in any unacceptable impacts. While some minor deficiencies have been identified, I am satisfied that alternative, compensatory design solutions would apply for both individual apartments and the overall scheme as a whole. Furthermore, I consider that the proposed standards are justified given the wider planning objectives that exist, including the need for the redevelopment of this under-utilised site. I again highlight that the proposed development does not rely on SPPR 3 to justify any departure from Development Plan building height policy.

### Specific Assessments

- 7.9.19. With regard to micro-climatic effects (other than daylight/sunlight), I do not consider this to be an exceptionally tall building such as would be likely to give rise to effects such as an acceleration of wind speed or 'downdraft' effects, whether individually or cumulatively with other buildings.
- 7.9.20. I have already outlined the ecological impact assessment of the proposed development, including impacts on birds and bat species. I am satisfied that appropriate measures have been included to prevent any unacceptable impacts. The need for further environmental assessments is addressed in sections 5.4 and 8 of this report.
- 7.9.21. Given the limited height of the proposed development and its context in relation to surrounding development, I do not consider that there is need for further assessment in relation to telecommunications channels or safe air navigation.

7.9.22. The application includes a Design Report, Conservation reports, and a Townscape and Visual Impact Assessment. I am satisfied that these adequately address the design and impacts of the proposed development on the amenity and character of the area, as previously discussed.

#### Conclusion

7.9.23. In conclusion, I consider that the proposed development is consistent with Development Plan standards in relation to height/density and would be located on a site with good transport accessibility, which would be suitable for increased density/height in accordance with the Sustainable Residential Development Guidelines and the Urban Development and Building Heights Guidelines.

7.9.24. Having considered the scale, height and massing of the proposed development, together with its distance and interface with surrounding development, I consider that the proposal will satisfactorily integrate with the scale and character of the area. Accordingly, I have no objections in relation to the height and density of the proposal and its impacts on the visual amenity and character of the area.

#### 7.10. **Other Issues**

##### Archaeology

7.10.1. The application includes an Archaeological Desk Study which identifies the location of the site to the north of the early medieval ecclesiastical enclosure at Galsnevin, including St Mobhi's Church and graveyard. It states that the site may contain traces of settlement and that much of the site may be an infilled stream channel. It proposes mitigation in the form of test excavation, and I note that the DCC Archaeologist report had no objections subject to conditions. Accordingly, I would have no objection to this approach.

##### Validity

7.10.2. I note that some third-party submissions have questioned the validity of the application on the basis of the accuracy of drawings and documentation submitted. However, I note that the planning authority considered the application valid and did not raise any related issues in the further information request. I am satisfied that the case contains adequate information, drawings, and documentation for the purposes of determining this appeal. Accordingly, I have no objections in this regard.

## Regulation of Commercial Institutional Investment in Housing

- 7.10.3. In May 2021, the Minister published Guidelines for Planning Authorities on the Regulation of Commercial Institutional Investment in Housing. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that displaces individual purchasers and/or social and affordable housing, including cost rental housing. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.
- 7.10.4. Although this case includes 8 duplex units, the Guidelines highlight the need for individual assessment depending on the nature and scale of the proposal. In this regard, I do not consider the proposal to be a traditional lower density housing development which the Guidelines aim to address. Furthermore, the 8 units would only marginally exceed the applicable threshold of 5 units. Accordingly, I do not consider that a condition to restrict the development to individual purchasers is warranted in this case.

## **8.0 Appropriate Assessment – Screening**

- 8.1. The application is accompanied by an Appropriate Assessment Screening report prepared by Deborah D’Arcy (MSc ACIEEM Ecologist). The nearest Natura 2000 site is identified as the South Dublin Bay and River Tolka Estuary SPA, located approximately 3.2km to the southeast. There are several other Natura 2000 sites in the inner Dublin Bay area, including South Dublin Bay SAC, North Bull Island SPA and North Dublin Bay SAC. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there is no potential for habitat loss.
- 8.2. It is well known that some SCI wintering birds use lands outside SPAs as ex-situ habitat. However, there are no records of such use on this site, and it is not considered suitable habitat for nesting or foraging. The small amount of Japanese

Knotweed recorded on site will be appropriately managed in accordance with the Invasive Species Management Plan.

- 8.3. Given the unsuitability of the site for supporting any SCI or Annex I bird species of the SPA sites, together with the limited height of the development which will not interfere with bird flight paths, there is no potential for habitat or species fragmentation.
- 8.4. Given the significant distance from the nearest SPA (3.2km) and the nearest identified ex-situ habitat (DCU Campus c. 400m away), the built-up urban context in the surrounding area, and the limited scale of noise and disturbance predicted from the construction stage, there is no potential for significant effects in terms of disturbance/displacement of species.
- 8.5. An Outline Construction Management Plan includes provision of an Environmental Management Plan which will ensure that there will be no significant risk of pollution or sedimentation as a result of construction works.
- 8.6. Wastewater will be treated at Ringsend WWTP and there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Therefore, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.7. The stormwater system has been designed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works and includes attenuation and storage. Discharge will be limited to a greenfield run-off. All hard surfaces will be permeable and will not contribute to the surface water discharge figures from the site. The Flood Risk Assessment has not identified a significant risk of flooding on the site.
- 8.8. Having regard to the foregoing, the limited scale of the development, and its lack of connectivity with other infrastructure and development in the area, I do not consider that there is potential for significant effects on European Sites as a result of cumulative impacts.



8.9. I am satisfied that any proposals incorporated within the development, including surface water and construction/environmental management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment or the submission of a Natura Impact Statement is not required.

## 9.0 Recommendation

Having regard to the foregoing and the reasons and considerations set out below, I recommend that planning permission for the proposed development should be granted, subject to conditions.

## 10.0 Reasons and Considerations

Having regard to the location of the site in close proximity to a range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2022-2028, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020 (including the December 2022 update), and the National Planning Framework, which seeks to direct new residential development in cities into built-up serviced areas, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and quality of residential development in this accessible urban location, would not seriously injure the amenities of surrounding properties or detract from the character or visual amenity of the area, and would be acceptable in terms of traffic

safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3rd day of February 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. (a) A total of 102 bicycle parking spaces shall be provided within the development, including 80 long-term residents' spaces and 22 visitor spaces.  
(b) The precise number and location of trees to be retained shall be clarified based on the further information submitted to the planning authority on the 3rd day of February 2022.  
(c) The existing gate piers shall be retained and reconstructed as proposed, and the proposed entrance gates shall be omitted.

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

**Reason:** In the interest of sustainable transportation, visual amenity, permeability, and accessibility.

3. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

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

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

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

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenities of surrounding properties and in the interest of clarity.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, management measures for noise, dust and dirt, and construction traffic management proposals.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

10. Operational waste management measures shall comply with the following:

- (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) The proposed bin store shall be adequately ventilated, drained and illuminated.

Proposals in respect of (a) and (b) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. Prior to the occupation of the development, a Mobility Management Plan / Residential Travel Plan shall be submitted to and agreed in writing with the planning authority. This shall include a car-parking strategy for the overall development and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The plan shall be prepared and implemented by the management company for all units within the existing and proposed development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the

future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

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

14. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

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

15. The basement parking area and car-share spaces shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

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

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

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

The assessment shall address the following issues:

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

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

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

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

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of

housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning



authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Stephen Ward  
Senior Planning Inspector

14th of February 2023