



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313252-22**

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#### **Development**

Permission for the demolition of the non-original fabric of Chesterfield House and sheds, construction of 366 no. residential units (8 no. houses, 358 no. apartments), creche and all associated site works

#### **Location**

Chesterfield, Cross Avenue,  
Blackrock, Co. Dublin.  
([www.chesterfieldplanning2.com](http://www.chesterfieldplanning2.com))

#### **Planning Authority**

Dun Laoghaire-Rathdown County  
Council.

#### **Applicant(s)**

Cairn Homes Properties Limited

#### **Prescribed Bodies**

1. DAU
2. IFI
3. Uisce Eireann
4. TII

#### **Observer(s)**

1. Adrienne Quinn and Brian Gillespie
2. Barry Hartigan

3. Brendan & Barbara Lynch
4. Brian Ahearne
5. Clodagh Walsh & Barry Collins
6. Clonfadda Wood Management Company
7. Conor & Laura Sugrue
8. Deidre Kiely & Eve Watson
9. Donal Clissmann
10. Emma O'Callaghan
11. Gerry & Dolores Kenny
12. James M. Sheehan
13. James Nolan
14. Jean O'Driscoll
15. John Curran
16. John Monaghan & Carina O'Donovan
17. Louise Meagher
18. Louise & Garret Kearney
19. Louise Carton
20. Margaret Oates
21. Matt Kavanagh & Bridget Bourke
22. Michael Relihan
23. Patricia Lyons
24. Patrick Rooney
25. Peter Onyemekeihia & Others
26. Redwood Grove Residents
27. Renesca Holdings DAC
28. Richard Butler
29. Ronan Flatley

30. Ronan O'Dwyer
31. Seamus McCardle
32. Sean & Margaret Moloney
33. Sue & John Lalor
34. Una Foley
35. Victor & Maura-Ann Quigley
36. Zhong Wen

**Date of Site Inspection**

9<sup>th</sup> April 2024 & 23<sup>rd</sup> April 2024

**Inspector**

Irené McCormack

## Table Of Contents

1.0	INTRODUCTION .....	5
2.0	SITE LOCATION AND DESCRIPTION .....	5
3.0	PROPOSED STRATEGIC HOUSING DEVELOPMENT .....	5
4.0	PLANNING HISTORY .....	10
5.0	SECTION 5 PRE-APPLICATION CONSULTATION -310942-21 .....	12
6.0	POLICY CONTEXT .....	16
7.0	THIRD PARTY SUBMISSIONS.....	30
8.0	PLANNING AUTHORITY SUBMISSION .....	34
9.0	PRESCRIBED BODIES.....	41
10.0	ASSESSMENT.....	44
11.0	ENVIRONMENTAL IMPACT ASSESSMENT .....	110
12.0	APPROPRIATE ASSESSMENT .....	115
13.0	CONCLUSION AND RECOMMENDATION.....	127
14.0	RECOMMENDED ORDER .....	127
15.0	REASONS AND CONSIDERATIONS.....	130

## **1.0 Introduction**

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

## **2.0 Site Location and Description**

- 2.1.1. The appeal site is an infill site located to the south of Cross Avenue, east of Mount Merrion Avenue and west of Booterstown Avenue and c.1km southwest of Blackrock village.
- 2.1.2. The site is located within an established suburban area and is surrounded by residential development. A detached residential property called 'Renesca' occupies a large site immediately north of the subject site. To the south is Clonfadda, a gated apartment and own-door development. Cherbury Court to the east comprises a mix of apartment and dwellings ranging from two to four storeys. Booterstown Park is to the northwest, Redwood Grove is located to the north-east and Southwood Park is to the southwest. The site is accessed via an existing entrance, located on Cross Avenue. A continuous line of mature trees surrounds the site to a height of 15- 20m.
- 2.1.3. There is a level change of approximately 6.4m across the rear of the site from South to North. The site itself incorporates Chesterfield House, which includes a protected 'Original Drawing Room' (RPS No. 171). In proximity to the house and on the eastern boundary is a single storey 'summer house', to the south is a garden encompassing mature trees and a man-made pond running in an east-west direction and forming the boundary with the southern green field area of the site.

## **3.0 Proposed Strategic Housing Development**

- 3.1.1. The development will consist of:
- i. the demolition of the non-original fabric of Chesterfield House (210 sq.m GFA) and change of use of the remaining structure from office and caretaker residence to residential use;
  - ii. change of use of the existing 'Summer House' (59.3 sq.m GFA) to caretaker's maintenance and storage, including alterations and internal modifications;

- iii. the demolition of 3 no. derelict sheds (combined 113 sq.m GFA) and decommissioned water tank;
- iv. the construction of **366 no. residential units**, with a cumulative gross floor area of 34,109 sq.m comprising;
  - a) **355 no. Build to Rent apartments across 6 no. blocks in the southern portion of the site ranging in height from 3-storeys to 8-storeys over basement incorporating 26 no. studio, 138 no. 1-bed, 163 no. 2-bed and 28 no. 3-bed units, all with private amenity space;**
  - b) **3 no. Build to Sell apartments (1 no. 2-bed and 2 no. 3-bed units) contained within a re-constructed Chesterfield House, all with private amenity space: and,**
  - c) **8 no. Build to Sell, two and a half-storey, 4-bedroom semi-detached houses to the north of Chesterfield House, all with private amenity space.**
- v. the construction of a **childcare facility at ground floor level in Block No. 2** with a gross floor area of 532 sq.m, with associated outdoor play area of 201 sq.m and 2 no. designated staff car-parking spaces located at basement level;
- vi. the provision of a build to rent **residents' services and amenities hub (combined 906 sq.m) located at basement level to accommodate a range of uses including a gym, aerobics room, residents' lounge, café, co-working area, chef's kitchen, 2 no. meeting rooms, and multipurpose/media/presentation space;**
- vii. the provision of **build to rent residential support facilities** (with a combined gross floor area of 429.3 sq.m) comprising concierge, parcel room, bin stores, cleaner's rooms, and caretaker's maintenance and storage (**former 'Summer House'**);
- viii. the provision of 5,260 sq.m of public open space and 11,260 sq.m of communal open space;
- ix. the construction of 1 no. bin and bike store with a combined gross floor area of 27.8 sq.m to serve Chesterfield House and 4 no. bike stores with a cumulative gross floor area of 119 sq.m in the southern part of the site;

- x. the provision of 644 no. bicycle parking spaces (540 no. long stay, 90 no. visitor and 14 no. for use by the childcare facility);
- xi. the provision of a total of 290 no. car parking spaces comprising 22 no. surface level and 268 no. basement level car parking spaces. Car parking on site will include 56 no. EV spaces, 12 no. universal access spaces, 8 no. visitor spaces, 2 no. car-sharing spaces and 2 no. car parking spaces designated for the childcare facility.
- xii. 11 no. motor-cycle parking spaces at basement level;
- xiii. **2 no. pedestrian access paths and access gates for potential future access (subject to agreement) at the boundary with Clonfadda to the south and Cherbury to the west;**
- xiv. **access will be via the existing access on Cross Avenue** and improvement works are proposed to this entrance including the construction of an ornate patterned steel panel (30m x 3.7m) incorporating signage (2.6m x 0.3m) to the east of the existing entrance and signage (2.2m x 1.5m) on the existing wall to the west; works to the public footpath in the form of a raised table pedestrian crossing, waste layby area, drop-off and set down spaces, improvements to and realignment of the existing internal vehicular access road from the Cross Avenue entrance to provide for a road of 5.5m in width and 2m wide footpath;
- xv. **realignment and enlargement of the existing on-site ornamental pond to facilitate surface water attenuation;**
- xvi. installation of infrastructure along Cross Avenue to facilitate connections to the municipal potable water supply at the junction of Cross Avenue and Booterstown Avenue and the surface water sewer at the junction of Cross Avenue and Mount Merrion Avenue;
- xvii. the construction of 2 no. single-storey ESB sub-stations with a combined gross floor area of 51 sq.m;
- xviii. all ancillary site development works including plant, waste storage areas, landscaping, green roofs, boundary treatment, outdoor lighting, and solar PV panels.

The proposed development also consists of the carrying out of works to Chesterfield House which contains a protected structure, 'Original Drawing Room' (RPS no. 171). Importantly, the protected structure will be retained within the proposed re-constructed Chesterfield House

The application includes an NIS.

### 3.2. Development Parameters:

Proposed Development	
Site Area	3.40.4ha. (The application area is c.3.4ha, of this c.3.17ha relates to the land proposed for development of residential units and the balance c.0.23ha relates to development that will take place on the public road to facilitate connections to the municipal potable water supply on Booterstown Avenue and surface water main on Mount Merrion Avenue)
No. of Units	<b>Total 366</b> <b>358 Apartments -</b> 26 (7%) Studio Apartments 138 (38%) – 1 bed Apartments 164 (45%) – 2 bed Apartments 30 (8%) – 3-bedroom Apartments + Penthouses <b>8 houses (4 bedroom)</b>
Building Height	2-8 Storeys
Dual Aspect	50% Dual Aspect Apartments
Demolition	Demolition of existing structure on site – total GFA – 323sqm
Density	115 u/ha.
Plot Ratio	1.44
Site Coverage	20%



Public and Communal Open Space	Public Open Space- 5,260sqm Communal Open Space – 11,260 sqm Creche External Space – 201sqm
Resident Amenities	Residential Support Facilities 429.3sqm Residential Servies and Amities 906sqm Creche 53sqm (capacity - 96)
Car Parking	290 no. spaces and 11 no. motor bike spaces.
Cycle Parking	644 no. Bicycle Spaces

### Apartments - Unit Mix

Building Ref.	Studio	1 Bed Apartment	2 Bed Apartment	3 Bed Apartment	Total
<b>B1</b>	2	32	57	11	102
<b>B2</b>	0	16	20	2	38
<b>B3</b>	12	8	22	10	52
<b>B4</b>	12	8	29	3	52
<b>B5</b>	0	22	7	0	29
<b>B6</b>	0	52	28	2	82
<b>CH</b>	0	0	1	2	3
<b>Total</b>	<b>26</b>	<b>138</b>	<b>164</b>	<b>30</b>	<b>358</b>
<b>% of Total</b>	<b>7</b>	<b>39</b>	<b>46</b>	<b>8</b>	<b>100</b>

3.2.1. In addition to the standard plans and particulars, the application is accompanied by the documents and reports which include inter alia:

- Planning Statement
- EIA Screening Report
- S.299B Statement
- Unit Justification Mix Report
- Material Contravention Statement
- Statement of Consistency - (2016-2022)

- Statement of Consistency - (2022-2028)
- Response to ABP Opinion
- Childcare Demand Report
- Design Statement Overall AHIA & HQA
- Architectural Drawings
- Housing Quality Assessment Report
- Urban Design & Architectural Report
- Landscape Report
- Landscape and Visual Impact Assessment Photomontages
- CGIs
- Engineering Drawings
- Civil Engineering Infrastructure Report
- Traffic & Transport Assessment
- Construction & Environmental Management Plan
- Resource & Waste Management Plan
- Hydrological Qualitative Risk Assessment
- DMURS Statement of Consistency
- Residential Travel Plan
- Site Specific Flood Risk Assessment
- Stage 1 Road Safety Audit
- Stage 1 Quality Audit
- Sustainable & Energy Planning Report
- Daylight, Sunlight & Overshadowing Report
- Ecological Impact Statement
- AA Screening Report
- Natura Impact Statement
- Building Lifecycle Report
- Arboricultural Assessment & Drawings
- Micro-Climate Modelling Report
- Operational Waste Management Plan
- Hydrogeological Assessment
- Public Transport Capacity Assessment
- Archaeological Assessment

## 4.0 Planning History

### Subject site

#### **ABP 316411-23 – RZLT**

**SHD ABP-302921-18** - Permission was Granted (13.02.2019) for demolition of non-original fabric of Chesterfield House (a protected structure) and derelict sheds. Construction of 221 no. residential units, resident's amenity facility and all associated works. **This decision was quashed (10.07.2019).**

**DLRCC D10A/0591/E** - Permission granted for extension of duration of permission for

construction of 90 residential units and associated development on the subject lands in lieu of development permitted under D06A/0069.

**DLRCC D10A/0591/ ABP PL06D.238361** - Relating only to lands to the rear (south) of Chesterfield House, site area 2.5 ha. Permission granted on appeal for construction of 90 residential units (36 houses and 54 apartments) and associated works in lieu of development permitted under PL06D.218536. This permission resulted in a total of 145 units at the development site with a density of 58 units / ha.

**DLRCC D07A/0531** - Permission is refused for revisions to previously approved permission Reg Ref D06A/0069, PL06D.218536 relating to the interior of Chesterfield House.

**DLRCC D06A/0069 /ABP PL06D.218536** - Permission granted for 204 apartments in 4 no. blocks (4 - 7 storeys); 370 no. parking spaces; bicycle parking and associated site works. The proposed works to Chesterfield House comprised its refurbishment to a Headquarter Office building with integrated 1 bed caretaker apartment, including the demolition of non-original extensions to the house. The development also included the demolition of nonoriginal out houses, landscaped gardens, walkways, parking and works to the entrance gate and access road. The Board granted permission for 142 residential units with 220 basement car parking spaces.

**DLR D04A/0950 / ABP PL06D.210828** Permission refused for 76 no. houses and 45 apartments in a 4-storey block. The development involved the demolition of the Summer House. Works to Chesterfield House were excluded from the application.

#### *Lands to the immediate North*

**DLR D23A/0778** – Permission granted (12.02.2024) for 5-bed detached dwelling on the western side garden of the property at Renesca, Cross Avenue, Blackrock, Dublin.

**DLR D19A/0292 / ABP-304913-19** - Permission Granted (06.12.2019) for demolition of the existing dwelling, 'Renesca', along with associated outbuildings and entrance pillars. Construction of an apartment block providing 33 no. apartments with associated balconies, comprising 9 no. 1-bed units, 19 no. 2-bed units and 5 no. 3-bed units. The development will be part 3-storey, part 4-storey and part 5-storey over basement. Basement level accommodating 37 no. car parking spaces, bicycle parking, storage lockers, refuse stores and plant rooms. Vehicular and pedestrian access at

Cross Avenue, landscaping, boundary treatments and all associated site works and services.

**DLR D04A/1416 /ABP PL06D.211878** - 'Renesca' Lands Formerly Part of Chesterfield Grounds - Permission granted for 2.5 storey over basement house, new entrance, boundary wall and associated site works to the north of Chesterfield House with a new access from Cross Avenue. This development is now extant.

*In the Vicinity*

**SHD ABP311190-21** – Permission granted on 8/12/2021 for 244 no. Build to Rent apartments and associated site works on site at Cross Avenue, Blackrock, Co. Dublin. ([www.crossavenueshd.ie](http://www.crossavenueshd.ie)).

**DLRCC D22A/0202 /ABP315112-22** -Awaiting ABP decision. Permission granted by DLRCC on 25/10/2022 to Bartra Property Ltd. for (i) demolition of existing two storey dwelling and ancillary garage; (ii) construction of five storey (four storey with fifth floor setback) over basement build-to-rent later living facility comprising 39 no. apartments (35 no. 1 bed and 4 no. 2 bed) at 45 Woodlands Park, Blackrock, Co. Dublin

## **5.0 Section 5 Pre-Application Consultation -310942-21**

**5.1.** A Section 5 pre-application consultation took place on the 3<sup>rd</sup> Of November 2021 in respect in respect of a development for the construction of 370 no. residential units (8 no. houses, 362 no. apartments) and associated site works. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

1. Architectural Design Approach:
  - Height, scale, massing and visual impact.
  - Photomontages and views within and across the site to Chesterfield House and from adjoining existing residential developments.
2. Residential Amenity
  - Unit mix
  - Sunlight and daylight
  - Overshadowing
  - Proximity of blocks
  - Open space and public realm
  - Permeability and connectivity
3. Response to Issues raised in the CE Report. Including

- Drainage Report o IW report (upgrade required)
- Transportation Division Report
- Conservation Division Report
- Housing Department report

#### 4. AOB

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

In the Notice of Pre-Application Consultation Opinion issued on 22<sup>nd</sup> November 2021 (ABP-310942-21) An Bord Pleanála stated that it was of the opinion that the documents submitted constitute a reasonable basis for an application for strategic housing development. The opinion also stated that the following specific information should be submitted with any application for permission:

1. A detailed statement, which should provide adequate identification of all such elements and justification as applicable, where / if the proposed development materially contravenes the statutory Plan for the area other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.
2. Cross-sections at appropriate intervals, photomontages and any other information deemed relevant, illustrating topography of the site and showing proposal relative to existing and permitted development in the vicinity, including Chesterfield House.
3. Justification of tree loss, hierarchy and quantum of open space provision, both communal and public open space (POS). Clarity with regard to compliance with Development Plan standards.
4. An up-to-date Ecological Assessment, inclusive of a Bat Survey.
5. Detailed landscape drawings that illustrate hard and soft landscaping, useable communal open space, meaningful public open space, quality audit and way finding. The public open space shall be usable space, accessible and overlooked to provide a degree of natural supervision. Details of play equipment, street furniture including public lighting and boundary treatments should be submitted.
6. A Daylight and Shadow Impact Assessment of the proposed development, specifically with regard to:
  - Impact upon adequate daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies.

- Impact to any neighbouring properties devoid of proposed and existing landscaping and trees.

7. Supporting design rationale should be given to improving residential amenity for future occupants by demonstrating the maximisation of sunlight to apartments and addressing issues to do with daylighting, overlooking and overshadowing.
8. A visual impact assessment. Long range views / photomontages of the proposed development from the surrounding area.
9. Childcare demand analysis by way of assessment and report on demographic profile of the wider area and including analysis of childcare capacity / services in the immediate area and the likely demand for childcare places resulting from the proposed development.
10. Irrespective of what strategy is adopted in relation to the protected structure in Chesterfield House (having regard to inter alia, the Conservation Report contained within section 1.3 of the planning authority's Opinion), the application should contain an architectural heritage protection rationale/justification for the chosen strategy. In the event that the prospective applicant maintains the proposal to demolish the non-original fabric of Chesterfield House, the application should also contain a detailed methodology for the protection measures proposed for the original fabric in the drawing room during the course of the proposed works.
11. A response to matters raised within the PA Opinion submitted to ABP on the 19th of September 2021. Including a response to issues raised in the Drainage Planning report, the Transportation Planning report and the Conservation Officers Report.
12. Where an EIAR is not being submitted the applicant should submit all necessary information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 for the purposes of EIAR screening.
13. A life cycle report shall be submitted in accordance with section 6.13 of the Sustainable Urban housing: Design Standards for New Apartments (2020). The report should have regard to the long-term management and maintenance of the proposed development. The applicant should consider the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the apartment buildings, landscaped areas, child friendly spaces, pathways, and all boundary treatments. Particular regard should be had to the

requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development.

14. As per SPPR7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning Authorities, March 2020 the development must be described in the public notices associated with a planning application specifically as 'Build to Rent' housing development and a covenant/legal agreement is required at application stage for BTR development.
15. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
16. Site Specific Construction and Demolition Waste Management Plan.

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

1. National Transport Authority
2. Irish Water
3. Transport Infrastructure Ireland
4. The Minister for Culture, Heritage and the Gaeltacht
5. The Heritage Council
6. An Taisce — the National Trust for Ireland
7. Fáilte Ireland
8. Dun Laoghaire Rathdown County Childcare Committee

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

- 5.3.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the documentation submitted would constitute a reasonable basis for an application for strategic housing development. Therefore, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.
- 5.3.2. However, I note a Statement of Response to ABP's Opinion has been submitted. I note the item raised in the Opinion have been addressed.

## 6.0 Policy Context

### 6.1. National

#### **The National Planning Framework – Project Ireland 2040, (2018).**

This document sets out the Government's strategic national plan for shaping the future growth and development of Ireland for the period up to 2040.

Of note National Strategic Outcome 1 (Compact Growth), sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas of cities, towns, and villages; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

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

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:



**RPO 3.2:** Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

**RPO 4.3: Support the consolidation and re-intensification of infill/brownfield sites** to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

**RPO 5.3:** Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

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

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

- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

### **Housing for All – A New Housing Plan for Ireland to 2030, 2021.**

The government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

### **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.

## **Section 28 Ministerial Guidelines**

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines 2020
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011
- Childcare Facilities – Guidelines for Planning Authorities (2001)
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities', 2007.
- The Planning System and Flood Risk Management (including associated Technical Appendices) 2005
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018.
- Spatial Planning and National Roads Guidelines 2012
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018 (updated 2019)

- EPA Guidelines on the Information to be contained in Environmental Impact Assessment Reports 2022

## 6.2. Other

### **Greater Dublin Area Transport Strategy 2022-2042 (NTA)**

This sets out a framework aiming to provide a sustainable, accessible and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

## 6.3. Local

**The SHD application was lodged on 7<sup>th</sup> April 2022. The Dún Laoghaire-Rathdown County Development Plan 2022-2028 was adopted on 10th March 2022 and came into effect on 21st April 2022. The applicable Development Plan is the Plan in place at the time the decision is made. Therefore, the relevant Plan is the Dún Laoghaire-Rathdown County Development Plan 2022-2028**

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

Zoning -The application site is zoned Objective A – *'To provide residential development and improve residential amenity while protecting the existing residential amenities.'*

'Residential' and 'Childcare Service' uses are 'permitted', and 'Residential - Build to Rent' and 'Restaurant' uses are 'open for consideration' under the Land Use Matrix under the Objective A Zoning.

- The site currently accommodates Chesterfield House. The description in the entry for Chesterfield House in the RPS is 'Original Drawing Room' and not 'House' and so what is listed is a single room within Chesterfield House. The Planning Authority has not listed any features associated with Chesterfield House apart from the 'Original Drawing Room' (RPS No. 171).
- The site includes an objective to protect and preserve Trees and Woodlands.
- The site is not located in an Architectural Conservation Area

## **Chapter 2 – Core Strategy**

**Section 2.6.2** relates to Active Land Management

**Policy Objective CS11 – Compact Growth** -It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary. (Consistent with RPO 3.2 of the RSES)

**Table 2.7** of the plan indicates the housing target up to Q1 2028 is 18,515, which is reflective of the target outlined in the RESE. This equates to a population increase of 38,125. Table 2.9 of the Plan indicates that there are approx. 553.28 ha. of serviced land available.

**Policy Objective PHP 18: Residential Density:** It is a Policy Objective to: *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*

**Policy Objective PHP19: Existing Housing Stock – Adaptation:** It is a Policy Objective to: *Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*

**Policy Objective PHP20: Protection of Existing Residential Amenity:** It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

**Section 4.3.1.1 sets out further guidance on density.**

**Section 4.3.2 relates to Housing Choice** and includes:

**Policy Objective PHP27: Housing Mix:** It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

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

**Developments:** *It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 (and any amendment thereof). Proliferation of Built to rent should be avoided in any one area. As the HNDA does not support provision of shared accommodation there shall be a presumption against granting planning permission for shared accommodation/coliving development.*

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

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

BTR shall be located within a 10-minute walking time from high frequency public transport routes. BTR will be considered as a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one area shall be avoided. (Section 4.3.2 Pg. 91)

**Policy Objective PHP30: Housing for All It is a Policy Objective to:**

- *Support housing options for older people and persons with disabilities/mental health issues consistent with NPO 30 in the NPF, RPO 9.1 and 9.12 of the RSES. Support the provision of specific purpose.*
- *built accommodation, including assisted living units and lifetime housing, and adaptation of existing properties.*
- *Promote 'aging in place' opportunities for 'downsizing' or 'right sizing' within their community.*

**Section 4.4.1** relates to Quality Design and Placemaking

**Policy Objective PHP35: Healthy Placemaking:** *It is a Policy Objective to: Ensure that all development is of high-quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of*

*the RSES. Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013). Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.*

**Policy Objective PHP42: Building Height:** It is a Policy Objective to: *Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF). The Councils Building Height Strategy is in Appendix 5.*

## **Chapter 8 -Green Infrastructure and Biodiversity**

### **Policy Objective GIB12: Access to Natural Heritage**

#### **GIB18: Protection of Natural Heritage and the Environment**

#### **GIB19: Habitats Directive**

#### **GIB22: Non-Designated Areas of Biodiversity Importance**

#### **GIB25: Hedgerows**

#### **GIB29: Nature Based Solutions**

**Policy Objective OSR7: Trees, Woodland and Forestry:** It is a Policy Objective to *implement the objectives and policies of the Tree Policy and the forthcoming Tree Strategy for the County, to ensure that the tree cover in the County is managed, and developed to optimise the environmental, climatic and educational benefits, which derive from an 'urban forest', and include a holistic 'urban forestry' approach.*

## **Chapter 11 -Heritage and Conservation**

**Section 11.4 states -** The curtilage of a Protected Structure is often an essential part of the structure's special interest. In certain circumstances, the curtilage may comprise a clearly defined garden or grounds, which may have been laid out to complement the design or function. However, the curtilage of a structure can also be expansive. The traditional proportionate relationship in scale between buildings, returns, gardens and mews structures should be retained. A garden size appropriate to that of the structure should also be retained.

Historic landscapes and gardens are also an important amenity and contribute to the setting and character of Protected Structures. These can include both built and natural features such as walled gardens, views/vistas, tree-lined avenues, decorative tree-clumps, woodlands, or plant collections.

**Policy Objective HER8:** Work to Protected Structures

**Policy Objective HER13:** Architectural Conservation Areas

### **Section 12.3.5 Apartment Developments, Section 12.3.3.1 Residential Size and Mix, Table 12.1 Apartment Mix Requirements:**

Table 12.1 *Apartment Mix Requirements*

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and duplexes)	3+ bed Requirement (Apartments)
New Residential Community (See figure 2.9 Core Strategy Map)	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units and with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Lands within SUFP	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Existing Built up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 20% 3+ bedroom units

The following are also considered to be relevant Policy Objective PHP 35: Healthy Placemaking; Policy Objective PHP37: Public Realm Design; Policy Objective T1: Integration of Land Use and Transport Policies; Policy Objective T11: Walking and Cycling.

Section 12.3.3.2 Residential Density, Section 12.8.11 Existing Trees and Hedgerows.

### **Appendices**

Appendix 2 – Housing Strategy and Housing Needs Demand Assessment (HNDA)

Appendix 5 – Building Height Strategy

- Section 2.2 Arguments FOR Higher Buildings and Tall Buildings
- Section 4.4 Policy Approach states - It is overall policy that all proposals for increased height and/or taller buildings.

- over and above the benchmarks of three to four storey in what are called residual suburban areas or
- in other identified areas as set out in Policy BH1
- above what is set out in any of the Local Area Plans or
- above any other specified heights in this plan (SUFP)

must be assessed in accordance with the criteria set out in Section 5

**Policy Objective BHS 1- Increased Height** – It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandymount UFP area, UCD and in suitable area areas well served by public transport links (i.e. **within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route**) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NP0 35, SPPR 1& 3) .....

**Policy Objective BHS 3 - Building Height in Residual Suburban Areas** – It is a policy objective to promote general building height of **3 to 4 storeys**, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an **argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out below in table 5.1** as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

#### 6.4. Applicants Statement of Consistency

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



Dublin County Development Plan 2022-2028 and other regional and national planning policies. This has been examined and noted.

## **6.5. Material Contravention Statement**

- 6.5.1. The MC report sets out the justification for the proposed development of lands at Chesterfield, Cross Avenue, Blackrock, Co. Dublin in two parts. It is set out that the application will be lodged under the 2016 Plan, and it is reasonably expected that the 2022 Plan will be extant at the time that the decision is made. The Statement of Consistency and any Material Contravention Statement is required to address the “relevant development plan”. Accordingly, this application is accompanied by reports that address the extant Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the newly adopted Dún Laoghaire-Rathdown County Development Plan 2022-2028 which is due to take legal effect on 21st April 2022.

**Part I** deals with the Dún Laoghaire-Rathdown County Development 2016- 2022, the statutory development plan in force at the time the SHD planning application was prepared and submitted.

**Part II** has been prepared having regard to the Dún Laoghaire-Rathdown County Development Plan 2022-2028 which was adopted on 10th March 2022 and is due to take legal effect on 21st April 2022 and anticipated to be in place when a decision is made on this planning application.

- 6.5.2. The Statement of Consistency that addresses the 2016-2022 Development Plan identifies eight aspects of the proposed development that potentially materially contravene the DLRCDP 2016-2022. They are - Building Height, Density, Apartment Design Standards - Dual Aspect, Unit Mix, Separation between Blocks, Internal Storage, Minimum Floor Areas, Private Open Space.
- 6.5.3. The Statement of Consistency that addresses the 2022-2028 Development Plan identifies four aspects of the proposed development that potentially materially contravene the DLRCDP 2022-2028. They are - Building Height, Density, BTR Locational Criteria, External Storage.
- 6.5.4. As set out above the relevant Development Plan is the Dún Laoghaire-Rathdown County Development Plan 2022-2028 (This is consistent with the CE report submitted from DLRCC). Therefore, I have summarised the statement as it relates to the

'relevant' Plan, the Dún Laoghaire-Rathdown County Development Plan 2022-2028 below: -

### **Building Height**

Policy Objective BHS 1 supports consideration of increased heights and taller buildings at appropriate locations, including, inter alia, suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route). Policy Objective BHS 3 applies to 'Residual Suburban Areas' and promotes general building heights of 3 to 4- storeys in these locations. Under both Policies BHS 1 and BHS 3, an argument may be made for increased height and/or taller buildings, where the applicant can demonstrate compliance with the performance-based criteria set out in Table 5.1, contained in Section 5 of the Building Height Strategy (Appendix 5).

However, adopting the precautionary approach, it is acknowledged that building heights of up to 8-storeys in the southern portion of the proposed development constitute 'taller buildings' as defined in the Plan and may be deemed to materially contravene the policy approach set out under section 4.4 of Appendix 5 of the DLRCDP, on the basis that part of the site falls slightly outside the 1000 metre/10 minute walk band of the DART station or QBC.

Accordingly, a justification is provided in the context of section 37(2)(b) for the proposed height. It is argued that the application site is within the 1000 metre/10-minute walk band of the DART station or QBC in so far as the entrance to the application site is within this walk band. Moreover, even if it were to be regarded as a contravention on the basis that part of the site is slightly outside the walk band, such contravention could not be regarded as "material" in planning terms, particularly where the entrance to the site is within the 1000 metre/10-minute walk band of the DART station and two Quality Bus Corridors.

It is further set out that the proposed development meets all the relevant Development Management Criteria set out under the Urban Development and Building Heights Guidelines for Planning Authorities (2018) SPPR3.

### **Density**

Section 4.3.1 of the Plan supports higher densities at a minimum of 50 uph at sites located within circa 1-kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, with a minimum default density of 35 uph for new residential developments.

As set out in the accompanying Residential Travel Plan the entrance to the application site is located 950 metres (circa 10-minute walk) from Booterstown DART Station and 900 metres (circa 10-minute walk) from the nearest bus stop (No. 2069) on the Stillorgan Road N11 QBC.

It is the applicants view that the application site satisfies the accessibility criteria set out for sites capable of supporting higher densities of 50 uph minimum. However, noting the Inspector's assessment in respect of a permitted SHD on the northern side of Cross Avenue (ABP Ref. 311190-21) where that site was determined to be an 'Intermediate' location, it is conceivable that a view could be taken that the minimum default density for new residential developments of 35 uph may be seen to be the applicable standard.

It is set out that If the Board were to take the view that it was not sufficient that the entrance to the site is within the 1000 metre/10-minute walk band of the DART station or QBC, the minimum default density of 35 uph might be considered to be the applicable minimum standard for this site. However, while part of the site is slightly outside the walk band distance, this is compensated for by the fact that the site is proximate to two Quality Bus Corridors, in addition to DART services. It is difficult to see how the fact that part of the site is slightly outside the walk band distance could be considered material in those circumstances.

### **BTR Locational Criteria**

Policy Objective PHP28 in the Development Plan seeks to facilitate Build to Rent (BTR) accommodation in suitable locations across the County and to avoid a proliferation of this form of development in any one area. In accordance with Section 4.3.2.3 of the Plan, it is a requirement that BTR development shall be located within a 10-minute walking time from high frequency public transport routes.

The entrance to the application site is within the 10-minute walking catchment specified in the DLRCDP 2022-2028. However, the proposed BTR component of the

development may be considered to be slightly outside the walk band criteria in Section 4.3.2.3.

The applicant sets out that it is doubtful as to whether this would amount to a contravention which could be regarded as material in planning terms, having regard to the proximity of both DART and two QBC services.

A Unit Mix Justification Report accompanies this application under separate cover. It highlights, inter alia, that apartments and flats account for approx. 31% of the existing housing stock in the study area (Electoral Divisions within a 1km radius of the application site) and owner occupation is the predominant tenure type, being particularly evident in the ED where the owner occupancy rate is 56.9% and rising significantly to 80.6% in the Small Area within which the proposed development site is located. It is set out that the supporting documents that accompany this application clearly establish that the subject site is strategically located and the proposed development consistent with the objective of delivering greater housing choice.

The proposed development will contribute to accelerated housing delivery at an appropriately located and 'accessible' urban site in accordance with the Sustainable Urban Housing: Design Standards for New Apartments (2020). The application site generally falls within the definition of a 'Central and/or Accessible Urban Location', namely because the entrance to the site is located 950 metres (circa 10-minute walk) from Booterstown DART Station which provides high-capacity public transport services. The entrance to the site is also 900 metres (circa 10-minute walk) from the nearest bus stop (No. 2069) on the Stillorgan Road (N11) QBC which provides high frequency urban bus services. While part of the site falls slightly outside the walk band distance indicated, this is compensated for by the fact that while walk band access to just one QBC or DART would bring the site within the definition of a 'Central and/or Accessible Urban Location', the site is proximate to two QBCs, in addition to DART services.

It is further argued that the development is consistent with and will realise wider planning policy objectives of the National Planning Framework (NPO 3b, NPO 4, NPO 5, NPO 11, NPO 13, NPO 33) and the Regional Spatial and Economic Strategy (RPO 4.3).

The Applicant's decision has been to adopt a conservative approach and accordingly, a justification is provided in the context of section 37(2)(b).

### **External Storage**

Section 12.3.5.3 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 requires that apartment schemes provide external storage areas for bulky items outside individual units (at ground or basement level). The proposed development does not provide external storage areas to serve the apartments.

The MC statement sets out that given that a more flexible performance-based approach to building design is promoted by the Apartment Guidelines and having regard to the scheme's overall compliance with the requirements contained therein, including in respect of standards for which flexibility is expressly provided, it is argued that dispensation specifically in respect of external storage areas is justified. In particular, it is noted that there is no requirement under the Apartment Guidelines for the provision of external storage, except where this is required to compensate for a derogation for internal storage requirements. The proposed apartments have been designed to provide a high level of residential amenity and include a generous offering of resident support facilities and resident services and amenities. The proposal provides ample secure cycle parking areas at basement level to facilitate safe and convenient storage of bicycles, ensuring no need to store these bulky items within individual units.

It is the applicant's opinion that non-compliance with this requirement is a contravention of the Development Plan but is not a material contravention. However, acknowledging the role of An Bord Pleanála, as the Competent Authority to decide on this matter and to make judgement on its materiality, and again adopting a conservative approach, we have provided a justification in the context of the provisions of section 37(2)(b) in relation to this matter.

#### **6.5.5. Justification For Material Contravention in Context of Section 37(2)(B) Criteria**

The Material Contravention Statement details policies and objectives in the National Planning Framework, Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly, Urban Development and Building Height Guidelines 2018' (Building Height Guidelines), Apartment Guidelines 2020 and Sustainable Residential Developments in Urban Areas 2009 and considers that there is sufficient

justification for the material contravention of the Development Plan.

## **7.0 Third Party Submissions**

7.1. 36 no. were received. The concerns raised are summarised below: -

### **BTR Tenure**

- Disproportionate emphasis on Built to Rent (BTR) apartments. This is out of keeping for this local housing environment which mainly consists of owner- occupied houses and apartments.
- This disproportionate number of BTR units will not foster a stable community as it will lead to a transient population of renters with no long-term stake in this community in general or with their immediate environment.
- It is argued that downsizers want to buy and not rent.
- BTR tenure is profit driven.
- Contrary to PHP28 of CDP

### **Design and Layout**

- The excessive height, bulk, density and proximity of the proposed development is extremely disproportionate to the existing milieu.
- Contravenes standards set out in the Development Plan including height, density and separation distance between buildings. The maximum height should be kept to 4 storeys as per the DLRC County Development Plan.
- Uncertainly as regards site boundaries as it is possible that the developer is encroaching on the Clonfadda site to remove and prune trees that do not belong to the site.
- The proposed location of the very large and tall apartment blocks (2, 3, & 4 referenced) at the highest point of the site is unacceptable as it fails to utilize in any way the potential of the sloping site to soften the overall impact. By contrast the three storey dormer apartment blocks in Clonfadda Wood are located at the lowest point of that site
- The proposed scale and height of the Apartment Blocks, 4 and 5 are unacceptable and is totally at variance with the adjoining three storey domed Apartment Blocks of

Waltham and Glenvar in Clonfadda Wood.

- Block 4 has increased in density to 52 units with a height of seven storeys over underground basement. Block 5 has 29 units with a height of 5 storeys over underground basement. Both of these units are being built at the highest level above sea level in the site and that is totally unacceptable.
- Negative Visual impact
- The proposed development fails to provide for family housing which is the single biggest shortfall in this area.
- Layout would leave limited open space for residents; the only views would be onto next door apartments.
- Overdevelopment
- The submitted application includes 8 no. 3-storey, semi-detached houses located between Chesterfield House and the southern boundary with Renesca. Houses H1 and H8 are positioned less than 1.85m from the shared boundary between the sites. The houses are noted to be 9,425mm in height and 13.8m long. The combined length of three storey blank elevation of Houses H1 and H8 is 27.6m ie: 38% of the length of the shared boundary.
- Concerns regarding the childcare facility and the impacts of noise from drop off and collection.

### **Residential Amenity**

- The proposed location of the apartment unacceptably close to the boundary of the site. In that location they will have an unduly oppressive effect and will directly overlook and will seriously interfere with the reasonable privacy traditions and expectations of adjoining house owners.
- Scale and size of roof gardens and balconies of Blocks 1 and 2, which are orientated to face onto Cherbury Court would lead to loss of privacy for properties in Cherbury Court.
- Potential for wind tunnel effects
- Apart from being out of scale these tall buildings have an impact on microclimate and nighttime light pollution. In the event of a fire, it will be difficult to evacuate.

- Importance of sustainability in design noted. No mention of rainwater harvesting.
- The proposed gathering space for 'BBQ or other group events' beside Block 4, directly faces the bedrooms of the Apartment Blocks of Waltham and Glenvar in Clonfadda Wood and will likely result in excessive noise, rubbish, and cooking
- Amenity enjoyed by neighbouring users ignored as a result of the building forms and landscaping around the sites edge.

### **Construction Impacts**

- Duration of works will give rise to noise nuisance.
- Vibration Impacts/ Subsidence as a result of significant underground structures (basement car parking)
- Development is result in dust and Air pollution. Dust Management Plan required.
- Use of generators to be located away from residential site boundaries.
- Developer should provide nearby residents with contact details for complaints.

### **Sunlight/Daylight**

- Impact on Sunlight and Daylight
- The 'Sunlight/ Daylight & Overshadowing Report' by Avison Young submitted as part of this application does not include any analysis of the permitted Renesca development (ABP-304913-19); it is therefore not possible for An Bord Pleanála to properly assess the extent of the overshadowing impact on the permitted Renesca scheme and raises concerns that the communal amenity space and children's play spaces serving future residents of the Renesca apartments will not receive adequate sunlight throughout the year should the proposed houses be granted permission in their current form.

### **Traffic/ Infrastructure**

- Will add to the existing local traffic congestion
- Insufficient width of Cross Avenue to allow two cars to pass
- Lack of car parking including visitor parking
- Potential to increase the risk of accidents



## **Pedestrian Access /Connections**

- The proposed pedestrian access through Clonfadda Wood will never be agreed and as such the plan fails in satisfying the conditions of Transportation Planning.
- The Developers have confirmed to ABP that they have engaged with the representatives of the adjoining landowners regarding access. Whilst discussion took place on this subject in the original application by Cairn Homes, no further discussions since then have taken place and certainly not in respect of this new application.
- Pedestrian link through Cherbury Court should be omitted.

## **Biodiversity/trees**

- Concerns about Loss of trees (55%). In total the developers propose to cull 155 of the 280 trees on the site and we object to this plan both for the visual effect on the site, the detrimental value to the wildlife in the area and the damage to the root systems caused as a result of the culling.
- Impact of the development on trees to be retained and theses should not be relied on to soften the impact of the development.
- Protection of wildlife. Chesterfield has been a wildlife habitat for many years and home to many species. The developer has not addressed in the planning application any issues that arise under the protection of Wildlife Species.
- Recently Brent Geese that frequent North Side Dublin have been seen in the area.
- The Bat Assessment Report shows that 20 of the trees that were proposed to be culled are classified as potential bat roost trees. Whilst replanting of trees is proposed these will not provide any assistance that would have been provided to the bat roost in the trees that are being culled
- Impact on frog wildlife population on site. The planning application should address same.

## **Services**

- Query re. water and sewerage capacity

## **Other Matters**

- A number of submissions note that The only access to information was from [www.chesterfieldplanning.com](http://www.chesterfieldplanning.com) as the DL RCC Computer System had a bug, that prevented a full review if the file taking place.
- Previous planning history noted -The previous planning permission in respect of this site limited the height of the apartment buildings to a maximum of six storeys. The impact of these eight storeys is very substantial and negative on the surrounding housing and there are no valid reasons for the increase from the previous overly generous allowance of six stories.
- The County Development Plan states that there is an oversupply of apartments in the County.
- Essential An Bord Pleanála ensures that the local Council is funded to carry out inspections during the building of whatever development goes ahead (reference to Priory Hall disaster)
- Capacity of local schools to cater for increased demand generated
- Depreciation of properties

## **8.0 Planning Authority Submission**

The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 1<sup>st</sup> June 2022. The report includes a summary of the statutory context, pre-planning history, site location and description, planning history, third-party submissions and prescribed bodies, relevant planning history, the proposed development, internal reports and policy context.

The views of the elected members presented at the Dun Laoghaire HEPI ACM , on 11<sup>th</sup> May 2022 are summarised as follows: scale, density and height of development is excessive, traffic concerns, poor unit mix, overdevelopment, Car parking ratio should be 0.5 not 0.8 due to proximity to Dart stations and Blackrock village, photomontages are misleading and misrepresents the development, the development should be carbon neutral, loss of trees noted , protection of biodiversity in particular, post. Positive to see one- and two-bedroom units. Request ABP to refuse.

Reports from the Drainage Department, Transportation Planning, Conservation Officers, Housing Department, Waste Section and Environmental Health officer have also been provided.

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

***Principle of Development***

- Principle of residential development is compatible with the land use zoning 'A'. Build to Rent and childcare facility are 'Open for Consideration'
- The principle of development is consistent with National and Regional policies objectives.
- Consistent with Policy Objective PHP18: Residential Density to promote compact growth... and PHP19: Housing Stock – Adaptation to densify existing built-up areas.
- It is considered that the principle of infill development at this location is acceptable.

***Built to Rent***

- The location of the site relative to public transport is accordance with Policy Objective PHP28 and Section 12.3.6 of the DLRCC Development Plan
- BTR benefit from SPPR7 and SPPR8 of the Apartment Guidelines 2020 and do not have to accord with guidance on increased unit size or CDP standards for housing mix.
- Regarding over proliferation the CE report notes the proximity of other BTR developments (ABP 311190-21 and D22A/0202) and the scale of the development comprising 97% BTR units.
- In accordance with the Core Strategy (Figure 2.8) and the Housing Strategy Appendix 2 Figure 2.3.2 limiting the site to BTR limits the choice for people who may wish to reside in the area and also prevents the mix of housing to meet DLR's core strategy targets.
- A more balance development of BTR and non BTR should be provided for in the scheme and only blocks 1,2 and 3 be BTR. SPPR 7 and SPPR 8 would not apply to the remainder of the units.
- In order to comply with housing mix table 12.1 and PHP 27 a minimum of 20% of unit with 3 beds in shall be provided in block 4,5 and 6 and the three units in Chesterfield house.

- It is noted that the scheme is generally in compliance with SPPR7 of the Apartment Guidelines.

### ***Density***

- The PA is generally satisfied that the higher density of 115 uph can be accommodated at this location in accordance with PHP18 and RPO 3.3 and 4.3 of the RSES.

### ***Residential Accommodation and Mix***

- Noting the unit mix proposed it is set out that the development does accord with SPPR8 of the Apartment Guidelines (2020)
- It is set out that regard be given to the cumulative impact of development in the vicinity including SHD's as regards tenure and the number of BTR units be reduced.

### ***Chesterfield House and Adjacent proposed Dwelling Units***

- Referencing the Conservation officer's report (including planning history), it is set out that the principle of the dwellings to the front of Chesterfield House are accepted, however concerns are expressed about the massing and length of side elevations of dwellings facing Chesterfield House.
- The principle of high-density development on the large area of open space to the south of the existing pond and belt of mature trees considered acceptable.
- Revisions recommended to reduce visual impact on views of Chesterfield House- Omit top floor elements/units of apartment block 6 in addition to setback /tapered height of both block 6 and block 3.

### ***Residential Standards***

- Floor Areas – meet or exceed the requirements of SPPR3 of the Apartment Guidelines and Section 12.3.5.5 of the Development Plan
- Private Amenity Space- meet or exceed the requirements of Appendix 1 of the Apartment Guidelines and Section 12.8.3.3 (ii) of the Development Plan.
- Dual Aspect – 50% of apartments are dual aspect and would accord with section 12.3.5.1 of the Development Plan and SPPR4 of the Apartment Guidelines

- Floor to Ceiling Heights – Development would be in accordance with Section 12.3.5.6 of the Development Plans and SPPR5 of the Apartment Guidelines.
- Unit per cores- In all cases the units per core are below 12 and in accordance with the Apartment Guidelines.
- Dwelling Unit Standards- The dwelling houses would accord with section 12.8.3.3.(i) Private Open Space for Houses of the Development Plan.

### ***Building Height***

- Noting BHS3 (Appendix 5 of Plan) - Site is located with a residential suburban area where general building height of 3-4 storeys are promoted.
- Development must be assessed in accordance with Table 5.1 of BHS
- The PA is generally satisfied that the site is capable of accommodating increased height and comply with the applicable performance-based criteria set out in Table 5.1 of Appendix 5 of the Development Plan subject to revisions to Blocks 3 & 6. In addition to the omission of units' from blocks 2,3, and 4 in terms of impact on adjoining developments.

### ***Design and Layout***

- While of increased scale the overall layout of the southern portion of the site is similar to the mixed housing and apartments schemes to the west and south/southeast in Cherbury Court and Clonfadda Wood and considered acceptable in response to the site and surrounding built form subject to amendments set out above
- Separation distances noted and accepted.

### ***Sunlight and Daylight Assess***

- The submitted sunlight and daylight report noted.
- It is noted that the assessment does not include the adjacent property of Renesca to the immediate northeast.

### ***Impact on Adjoining Amenities***

- It is considered that the development as proposed is adequate to protect against overshadowing and overlooking of adjacent built forms.

- Concern noted as regard potential visual impact when viewed from existing adjacent residential properties. Should the ABP be minded to grant amendments to Blocks 2,3 and 4 recommended namely the omission of units.
- Proposed elevated private apartments spaces within Chesterfield House acceptable and will not adversely affect adjacent properties.
- Similarly, the 8 no. 2.5storey houses will not adversely impact on amenities of permitted residential development by way of undue overlooking or overbearing impact.

### ***Open Space and Public Realm***

- The development would generate a communal open space requirement of 2,212sqm. The scheme provides for 11,260sqm (35.5% of total site area) and is considered acceptable.
- Section 12.8.3.1 Public Open Space and Table 12.8 of Development Plan require a minimum 15% public open space of suitable quality. The scheme provides for 5260sqm (16.6%) and is considered acceptable.
- The landscaping including tree removal and replacement planting noted and considered acceptable.

### **Childcare Facilities**

- Acceptable subject to appropriate phasing.

### **Drainage**

- Submitted documents noted.
- Referencing the report from the Drainage Division it is noted following engagement with the applicant that the plans and particulars generally satisfy the requirements of the Drainage Planning.
- SSFRA assessment acceptable
- CoF from IW dated 19/07/2021 noted (Appendix 2 of Civil Engineering Infrastructure Report)

### **Transportation, Parking and Access**

- Submitted documents noted.
- Reference is made to the Transportation Planning Report and the recommended conditions attached.

- It is noted that the car parking provision is acceptable. However, visitor parking is inadequate, and a condition is recommended to address same.

### ***Public Lighting***

- The lighting design is not currently acceptable and that an altered design to increase the minimum lighting level to 1 lux and include the location of trees within the scheme is required.

### ***Refuse Management, Scheme Management and Construction Details***

- Submitted documents noted.
- Referencing the Waste Section report it is set out that while the submitted documents are generally acceptable, further consideration is required in relation to the design of building services to avoid the creation of serious environmental nuisance in the operation of the proposed works. Conditions pertaining to noise management, environmental monitoring, construction waste public liaison, operational waste management and pest control be attached to any grant of permission.
- It is noted the EHO indicates a baseline noise survey is required.

### **Part V**

- Housing Department recommend a suitable condition be attached.

### **Taking in Charge**

- It is noted that as per details submitted no part of the development is to be taken in charge.
- In the event that permission is granted a condition in respect of roadway construction is required in compliance with DLR standards.

### **Appropriate Assessment and Environmental Impact Assessment**

- Report notes the NIS and EIA screening reports submitted.

### **Conclusion**

Subject to the inclusion of appropriate conditions it is considered that the development of a residential infill development at this site is consistent with the relevant objectives of the Dun Laoghaire Rathdown Development Plan 2022-2028 and national planning policy regarding new apartments development and building height, which seek to

provide for increased density and height in accordance with the National Planning Framework.

The relevant conditions are noted below:

Condition no. 2 relates to (a) BTR only blocks 1,2 and 3 (b) Revised plans for blocks 4,5 and 6 to comply with table 12.1 and Objective PHP27 to increase the 3+ bedrooms units to 20% or more.

Condition no. 3 relates to (a) omission of 5<sup>th</sup> floor Block 1 reducing to a maximum of 7 storeys (b) omission of 3 apartments on 6<sup>th</sup> floor of block 2 (c) omission of 3 apartments on 6<sup>th</sup> floor of block 3 (d) omission of 2 apartments on 6<sup>th</sup> floor of block 4 (e) omission of 1 apartment on 7<sup>th</sup> floor of block 6.

Condition no. 6- relates to no subdivision of units.

Condition no. 10 – relates to works to Chesterfield House

Condition no 11– relates to **Drainage** Conditions.

Condition no. 16 - relates to **Transportation** Conditions.

Condition no. 17 – relates to footpaths and connections.

#### 8.1.1. **Dun Laoghaire Rathdown Reports**

##### Internal Departmental Reports

**Drainage Planning** - No objection subject to conditions.

**Transportation Planning** – No objection subject to conditions.

**Transportation Planning – Public Lighting Section** – No objection subject to revised proposals for minimum lighting levels to Lux 1.

**Conservation Officer** – The report notes the planning history and the townscape changes associated with intervening planning permission to the north at Renesca.

It is set out that the visual impact of the proposed apartment development on views south from the protected room will be significant, revisions to be scheme should be sought to mitigate same.

A number of conditions recommended.

**Housing Department** – Proposal to comply with Part V noted. Compliance with Part V will be subjection to planning permission.



**Waste Section** - Further information required in relation to design of building services to avoid the creation of environmental nuisance. Six no. conditions recommended re. Nosie Mangt, Environmental Mangt, Construction Mangt., Liaison with Public, Operational Mangt. and Pest Control.

**EHO** – Further information required - Baseline noise survey required.

## **9.0 Prescribed Bodies**

### **9.1.1. Development Application Unit (Report dated 10<sup>th</sup> May 2022)**

The submission notes:

- Appropriate Assessment identified the possibility for pollutants to be mobilised from the development into surface water runoff and reach the nearby south Dublin Bay Special Area of Conservation (SAC) and South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) with potentially detrimental effects on these Natura 2000 sites. A suite of measures proposed in the Natura Impact Statement (NIS) and Construction Environmental Management Plan (CEMP) supporting this application should however prevent any such mobilisation of polluting materials from the development.
- Some of these trees to be removed may provide nesting sites for birds. of the thirteen species recorded on the site in recent years during the breeding season which may nest in shrubs or trees. All are common species and consequently not of high conservation value but any clearance of vegetation from the site during the main bird breeding season from March to August could lead to the destruction of nests, eggs and nestlings.
- Bat activity surveys of the development site in the summers of 2017, 2018, 2019, 2020 and 2021 identified a relatively low level usage of the site for foraging by four species, common and soprano pipistrelles, Leisler's bat and long-eared bat, the last a light sensitive species. No bat roosts were recorded in the existing buildings on the site but fifty trees on the site were considered have features having the potential to be used as bat roosts, and it is proposed to fell twenty of these trees. The supporting Bat Survey Report consequently recommends a survey of the potential bat roost trees to be felled should be carried out should be carried before any tree clearance is carried out on the site and that if evidence of bat usage of the

potential bat roosts is found a derogation licence to interfere with them shall be applied for from the National Parks and Wildlife Service of this Department. It also proposes appropriate timing of and procedures for tree felling so as to avoid injury to bats, the erection of 12 bat boxes of two models to provide substitute bat roosts and the installation of bat friendly lighting in the development.

- Four no. conditions recommended.
- Nothing the archaeological impact assessment submitted and in n light of the work previously undertaken and the results of the submitted archaeological impact assessment it is recommended that no further archaeological mitigation is required.

#### **9.1.2. Inland Fisheries Ireland (IFI) (Report dated 26<sup>th</sup> April 2022)**

Hydrological pathways are present between the Priory Stream and the proposed development, via the surface water sewer which leads to the Priory Stream, which also discharges to Dublin Bay.

The Priory Stream belongs to the Brewery\_Stream\_010 WFD surface waterbody which has a 'Moderate' Status (EPA, 2022) and its WFD risk score is 'Under Review'.

There can be no deterioration in the current status resulting from this or any other development which has Hydrological connection to this surface water body. This direct connectivity between the site and the Priory stream via the surface water drainage system poses a risk to Dublin Bay SAC , especially during the construction phase of the development if there is any discharges of deleterious materials. During the construction phase, there is potential, in the absence of mitigation, for surface water runoff to have increased levels of suspended solids or other pollutants and impact on the receiving water bodies.

- It is essential that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development during construction and post construction phases with no negative repercussions for the quality of any receiving waters. Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023.
- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

- All construction should be in line with a project specific Construction Environmental Management Plan (CEMP).

Should development proceed, best practice should be implemented at all times in relation to any activities that may impact on surface water or receiving waters.

#### 9.1.3. **Uisce Eireann (Report dated 1<sup>st</sup> December 2022)**

##### In respect of Water:

Regarding the proposed water connection, a new connection to the existing network is feasible, subject to upgrade works, namely;

In order to accommodate the proposed connection at the development, upgrade works are required to increase the capacity of the water network. Approx. 215m of new watermain main required to be laid to replace the existing 4" CI to the 250 mm DI main along Booterstown Avenue.

Irish Water does not currently have any plans to carry out the works required to provide the necessary upgrade and capacity. Should you wish to have such upgrade works progressed, Irish Water will require you to provide a contribution of a relevant portion of the costs for the required upgrades.

##### In respect of Wastewater:

Feasible without infrastructure upgrade by Irish Water. 2 Uisce Éireann Irish Water As noted in the Confirmation of Feasibility issued by IW on 19th July 2021, IW has recently completed a project which provides the necessary upgrade and capacity from the existing head of the ex. 450mm as far as Larchfield Road, to accommodate the proposed development.

##### Design Acceptance:

The applicant (including any designers/contractors or other related parties appointed by the applicant) is entirely responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary which is necessary to facilitate connection(s) from the boundary of the Development to Irish Water's network(s) (the "Self-Lay Works"), as reflected in the applicants Design Submission. A statement of Design Acceptance was issued by Irish Water on 16th March 2022.

Planning Recommendation:

Irish Water respectfully requests the board condition(s) any grant as follows:

1. The applicant shall sign a connection agreement with Irish Water prior to any works commencing and connecting to the Irish Water network.
2. Irish Water does not permit any build over of its assets and separation distances as per Irish Waters Standards Codes and Practices shall be achieved. (a) Any proposals by the applicant to build over/near or divert existing water or wastewater services subsequently occurs, the applicant shall submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to connection agreement.
3. All development shall be carried out in compliance with Irish Water Standards codes and practices.

**9.1.4. Transport Infrastructure Ireland (report dated 12<sup>th</sup> April 2022)**

In the case of this planning application, Transport Infrastructure Ireland has no observations to make.

## **10.0 Assessment**

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

- Zoning/Principle of Development
- Housing Tenure
- Design Strategy
- Building Height & Visual Impact
- Residential Amenity
- Impact on Built Heritage
- Biodiversity & Ecology

- Traffic and Transport
- Drainage
- Other Matters
- Planning Authority Recommendation
- Material Contravention Statement

▪ Note: The attention of the Board is drawn to the fact that The Apartment Guidelines were updated in July 2023, subsequent to the SHD planning application being lodged on 7<sup>th</sup> April 2022. The most recent update in July 2023 Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to BTR development. However, of relevance to this application are the transitional arrangements set out in Section 5.10 of the Apartment Guidelines 2023 which states: *“All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21<sup>st</sup> December 2022, will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8”*. The following assessment is therefore based on the 2020 Apartment Guidelines.

▪ Note: The attention of the Board is drawn the previous planning application on this site namely ABP 302191-18. ABP 302191-18 was quashed 10.07. 2019. This current application has been assessed on its own merits.

## **10.2. Principle of Development**

### *Compliance with Zoning*

10.2.1. The site is zoned Objective A (Residential) in the Development Plan, the objective of this zoning is to ‘provide residential development and improve residential amenities while providing the existing residential amenities’. ‘Residential’ and ‘Childcare Service’ uses are ‘permitted’, and ‘Residential - Build to Rent’ is ‘open for consideration’ under the Land Use Matrix.

10.2.2. In addition, the provision of residential development on lands zoned Objective A would be consistent with the policies of the Planning Authority as set out in section 2.6.2 *Active Land Management* of the Development Plan and Policy Objective CS11 – *Compact Growth* to deliver 100% of all new homes, that pertain to Dublin City and

Suburbs, within or contiguous to its geographic boundary. (Consistent with RPO 3.2 of the RSES) and to encourage the development of underutilised and brownfield sites, with a view to consolidating and adding vitality to existing centres and ensuring the efficient use of urban lands.

- 10.2.3. I consider the provision of an apartment complex and houses, publicly accessible landscaped gardens and childcare facility consistent with the concept of urban sustainability and provides for increased residential density in an urban area in line with the objectives of the National Planning Framework, the RSES and Development Plan.

#### *Demolition*

- 10.2.4. Regarding the demolition works associated with the redevelopment of Chesterfield House. The demolition works and Conservation Method Statement are addressed in the Architectural Heritage Impact Assessment submitted. The site currently accommodates Chesterfield House. The description in the entry for Chesterfield House in the RPS is 'Original Drawing Room' and not 'House' and so what is listed is a single room within Chesterfield House (RPS No. 171). I note the demolition works relate to non-original elements of the house. In addition, it is proposed to demolish 3 no. derelict sheds (combined 113 sq.m GFA).
- 10.2.5. Development Plan provisions (including Objective CA6: Retrofit and Reuse of Buildings and Policy Objective PHP19: Existing Housing Stock - Adaptation). Encouraging the retrofitting and reuse of existing buildings, rather than their demolition and Objective CA6 acknowledge the 'embodied carbon' implications associated with the demolition and reconstruction of a new development. In this instance, the demolition works are justified on the basis that the 1970's extension to Chesterfield House reflect a detracting and confusing internal ornamentation with adjoining rooms that currently occur on a number of different levels and have no relationship to the drawing room. This haphazard design is reflected in the fenestration which lacks symmetry and balance. In this respect, I agree with the applicant that the overall presentation of the drawing room would be much improved by replacing the pastiche extensions from the 1970s with a more sensitive design in a contemporary, but complementary architectural style that would reinstate the symmetry of the former house.

10.2.6. I am satisfied the demolition works are therefore justified and I consider that demolition must also be balanced with the wider sustainability issues associated with the proposed development and the wider policy objectives for the delivery of housing. Further consideration of the impacts on Built Heritage is addressed in section 10.7 below.

#### *Density*

10.2.7. A number of observers and the elected members raised concerns about overdevelopment and excessive density. The Plan does not place an upward limit on residential densities. Policy Objective PHP 18: *Residential Density* of the Development Plan seeks to increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations... subject to suitable design. The Development Plan does not prescribe a maximum density standard for the area/site but supports minimum densities of 50 units per hectare in central/accessible locations and 35 units per hectare throughout the county. This is reinforced in section 12.3.3.3 which seeks to optimise the density of development in response other type of site, location and accessibility to public transport and Policy Objective PHP19: Existing Housing Stock – Adaptation to conserve and improve existing housing stock and densify existing built-up areas in the County through small scale infill development.

10.2.8. The core strategy of the Development Plan states that development in DLR will be concentrated in the built-up footprint of the County in order to achieve compact growth and that this will be in the form of higher residential densities. Section 3.1 of the Development Plan sets out that this increases efficiencies as travel distances between home, work, education and services are reduced and hence active modal share, which is zero carbon can be increased. The developable area is the Chesterfield Site of 3.17 hectares and the net density is 115 units per hectare.

10.2.9. As regards Chesterfield, the site is accessible to the following:

- Booterstown DART station is c.950m northwest of the site (c.10 minutes' walk time).
- Blackrock DART station is c. 1.4kms (c. 15 minutes' walk time) to the northeast and a bus service links the Station with Mount Merrion Avenue (c.500m / 6-minute

walk time).

- N11 QBC is c. 850m south of the site (c. 10 minutes' walk time) and is served by 9No. bus routes (7B, 7D, 17, 46A, 46E, 47, 116, 118 and 145).
- The closest bus stop on the Rock Road QBC is c.1km north of Cross Avenue (c. 13-minute walk time) and is served by 4No. bus routes (4, 7, 7A and 84A).
- The Public Transport Capacity Report confirms that there currently exists sufficient spare capacity on the DART and LUAS to accommodate this development.
- Blackrock District Centre is c.1km walk time (c. 13-minute walk time).

10.2.10. Having regard to the above the PA is generally satisfied that the higher density of 115 uph can be accommodated at this location in accordance with PHP18 and RPO 3.3 and 4.3 of the RSES. I would agree.

10.2.11. I draw the Boards attention to the recently published Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which set out that it is a policy and objective of the Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied at City – Urban Neighbourhoods at highly accessible urban location with good access to employment, education and institutional uses and public transport as defined in Table 3.8. Table 3.8 defines 'intermediate' location lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services; and Lands within 500 metres (i.e. 6 minute walk) of a reasonably frequent (minimum 15 minute peak hour frequency) urban bus service. Having regard to the proximity of the site to public transport as set out in section 10.2.9 above I would consider the site to be a 'intermediate location' as defined in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).

10.2.12. The Guidelines establish that 'while densities within the ranges set out will be acceptable, planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations. The density of 115uph reflect this mid-range and is therefore consistent with the Compact settlement guidelines in my opinion.



10.2.13. Density was raised as a Material Contravention. The entrance to the application site is within the 10 minute walking catchment specified in the DLRCDP 2022-2028. I do not consider the location of the BTR component to the south lying just outside the walking band criteria as identified in Section 4.3.2.3 to be significant or material. I will address this matter in more detail in section 10.13 below.

### **Conclusion**

10.2.14. The Development Plan confirms that 'Residential' is permitted in principle and 'Build to Rent' is open for consideration in this zoning. In this regard, I am satisfied that the proposed development would be consistent with the land use land-use zoning objectives 'A' as set out in the Development Plan 2022-2028 subject to detailed consideration below.

10.2.15. The refurbishment and restoration of the 'Drawing Room' of Chesterfield House and the re-use and redevelopment of the House for residential use is accordance with Objective PHP19: *Existing Housing Stock – Adaptation* and Section 12.11.2 *Architectural Heritage - Protected Structures* and consistent with good conservation practices to protect and conserve Protected Structures and demolition works therefore justifiable.

10.2.16. Having regard to the location of the site relative to the District Centre of Blackrock and the accessibility to public transport, I am satisfied the proposed density of 115uph can be accommodate on this site in accordance with section 12.3.3.2 and Policy Objective PHP 18 of the Development Plan.

### **10.3. Housing Tenure**

#### *Policy Context*

10.3.1. As set out above this SHD planning application was lodged with An Bord Pleanála on 7<sup>th</sup> April 2022. I wish to draw the Board's attention to the fact that this assessment will be considered in accordance with the 'Transitional Arrangements' set out in section 5.10 of the Guidelines July 2023. The following assessment is therefore based on the 2020 Apartment Guidelines

10.3.2. Having regard to the above Policy Objectives PHP27 and PHP28 cannot be interpreted as precluding BTR on the subject site on the basis of inadequate unit tenure or unit mix within the proposal. Such a policy would be in conflict with the

SPPRS of the Apartment Guidelines 2020, which should take precedence in the assessment of the subject scheme. In the interest of clarity, I will set out below the relevant policies as set out in the Development Plan 2022-2028 and the requirements of the Apartment Guidelines 2020.

#### *BTR Typology*

10.3.3. The provision of BTR is provided for in the Dun Laoghaire Rathdown Development Plan 2022-2028 under Section 4.3.2.4 Policy Objective PHP28: Build-to Rent and Shared Accommodation/ Co-living Developments.

10.3.4. Objective PHP28 sets out that it is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 (and any amendment thereof). Section 4.3.2.4 establishes that Build-to-rent (BTR) accommodation will be facilitated at appropriate locations across the County in accordance with land use zoning objectives where BTR is:

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

Section 4.3.2.4 also states that BTR shall be located within a 10-minute walking time from high frequency public transport routes and that BTR will be considered as a component part of achieving an appropriate mix of housing, **however, a proliferation of Build to Rent in any one area shall be avoided.**

10.3.5. I have already established in section 10.2 that BTR is open for consideration in this zoning, as regards proximity to public transport the site is less than 1km/10 minutes walking distance of the high frequency public transport. Therefore, the site adheres to the location requirements of Objective PHP 28 as regards BTR.

10.3.6. I further note the Apartment Guidelines, 2020 do not specify any locational requirements for BTR, however, the subject site is defined in the Guidelines as a Central and/or Accessible Urban Location having regard to the site's location relative to public transport and Blackrock urban centre and is thus appropriate.

- 10.3.7. Therefore, I am satisfied that location of the site complies with the locational requirements for BTR as set out in section 4.3.2.4 of the CDP 2022-2028 in so far as the development is open for consideration at this location, within a 10-minute walking time from high frequency public transport routes.
- 10.3.8. The PA consider the quantum of the Build-to-Rent component on site would not provide for a sustainable mix of tenure of housing type and would not provide for a sustainable housing mix of units which is consistent with the Housing Needs Demand Assessment, as contained in Appendix 2 of the Dun Laoghaire Rathdown County Development 2022-2028. The Housing Strategy and HNDA have informed policy PHP27 in relation to mix. In order to demonstrate compliance with Policy Objective PHP27 and based on the findings of the Housing Strategy and HNDA, planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County. Section 4.3.2 *Housing Choices* establishes that BTR will be considered as a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one area shall be avoided (PHP 28).
- 10.3.9. The PA contend that in accordance with the Core Strategy and the Housing Strategy Appendix 2 Figure 2.3.2, limiting the site to BTR limits the choice for people who may wish to reside in the area and also prevents the mix of housing to meet DLR's core strategy targets. The applicants argue that the existing housing stock in the ED and the study area is predominantly house/bungalow, 69% and approx. 57% is owner occupied and that the development will provide an alternative residential offering.
- 10.3.10. Whilst the introduction of apartments will provide for an alternative housing offering in the area, I consider an appropriate balance is required in terms of build to sell and build to rent to ensure the provision of 'sustainable residential communities' and to reduce the potential for over-proliferation of BTR in the area. To this end, I agree with the PA that BTR should be restricted. I note the observers have raised similar concerns as regards the disproportionate percentage of BTR. The PA in their assessment recommend blocks 1,2 and 3 be BTR with the remainder of the scheme BTS.

- 10.3.11. Again, whilst I agree with introducing additional housing choice to the area, the application being proposed is a specific build to rent development described in the public notices associated with the planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (excluding the 8 no. houses and redeveloped Chesterfield House) as a long-term rental housing scheme accompanied by a proposed covenant or legal agreement to the effect.
- 10.3.12. The Guidelines establish that BTR schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. In accordance with SPPR 7 an Operational Management Plan, A Housing Quality Assessment Report and a Draft Covenant have been submitted with the application. I further note that BTR benefit from SPPR7 and SPPR8 of the Apartment Guidelines 2020 and do not have to accord with guidance on increased unit size or CDP standards for housing mix. BTS are subject to different standards with the potential to materially alter the development. Therefore, any revision to the scheme to provide for a mix of BTR and BTS cannot be agreed by way of condition in my opinion.
- 10.3.13. As regards over proliferation, I agree with concerns of the PA and observers having regard to the proximity of other BTR developments namely ABP 311190-21 at 244 units. I note the Apartment Guidelines (2020) do not address over-proliferation of BTR. However, in this regard and having particular regard to the relative proximity of ABP 311190-21 (at 244 no. units) ca. 220m to the northeast of the site which is currently under construction and also accessing directly onto Cross Avenue, I consider the cumulative impacts of a further 358 BTR units as proposed in one area would be contrary to the requirements of section 4.3.2.3 and Policy Objective PHP 28 as it relates to the avoidance of the proliferation of built to rent in any one area.
- 10.3.14. In conclusion, I consider the proposed quantum of build to rent would result in over proliferation at this location and would be contrary to section 4.3.2.3 and Policy Objective PHP27 as it relates to 'sustainable residential communities' and Policy Objective PHP28 as it relates to over proliferation of BTR of the Development Plan and the development should be refused for this reason.

*Unit Mix*

10.3.15. The subject site is located in an area designated as 'Urban'; figure 2.9 of the Core Strategy Map. Table 12.1 of the Development Plan relates to Apartment Mix Requirements. Section 12.3.3.1 of the Development Plan sets out quantitative standards for residential size and mix. In existing built-up areas schemes of 50+ units Table 12.1 sets out that apartment developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. Table 12.1 also establishes a minimum 20% 3+ bedroom units. The proposed BTR elements of the scheme provides for 26 no. Studios 7%, 138 no. 1-bed units 39%, 164 no. 2-bed units 46% and 30 no. 3-bed 8%. 92% of units are made up of studio, one bed and two-bedroom units.

10.3.16. The Unit Justification Mix Report submitted by the applicant establishes Apartments/flats account for approx. 31% of the existing housing profile in the study, Owner occupation is the predominant tenure. Across the study area at least 56% of households comprise 1-2 persons, and this increases to approx. 60% in the ED. There is a high concentration of work opportunities proximate to the site and 1-bedroom and 2-bedroom units account for c. 82% of the demand for social housing units in the DLR area.

10.3.17. In the first instance, the 'transitional arrangements' as set out in section 5.10 of the Apartment Guidelines 2023 apply to BTR proposals. In accordance with the 'transitional arrangements' the overriding document is the Apartment Guidelines 2020, in particular, SPPR 7 and SPPR8. SPPR8 (i) states that 'no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise'.

10.3.18. In accordance with SPPR8 no unit mix shall apply to the BTR elements of the scheme. While I note the housing mix table 12.1 and PHP 27 requires a minimum of 20% of units with 3 beds be provided this is not applicable in the context of BTR and therefore not relevant having regard to SPPR8 of the Apartment Guidelines 2020.

*Compliance with Apartment Guidelines 2020*

10.3.19. Dedicated shared amenities in accordance with part (b) of SPPR7 are provided. The proposed development incorporates 429.30 sq.m of facilities (the 'Summer House' which will accommodate storage and maintenance, a concierge, parcel room, waste

management areas, and cleaner's rooms) and 906 sq.m amenities and services. The amenities are grouped in a hub for the residents and extend across Blocks 1 and 6, occupying a central location, overlooking the pond with views to the Chesterfield gardens beyond. The uses proposed offer variety for the future residents including • a gym, • aerobics room, • residents' lounge, • café, • co-working area, • chef's kitchen, • 2 no. meeting rooms, and • multipurpose/media/presentation space. In addition to landscaped communal amenity spaces and public open spaces.

10.3.20. I consider that the internal and external communal spaces within the development have a high standard of design and layout and will adequately serve as amenities for residents of the development. The proposed quantitative and qualitative provision of residents' services and amenities is therefore satisfactory, and I consider that the development complies with SPPR 7 (b) of the Apartment Guidelines, which requires applications for BTR development to comprise residents support facilities and resident services and amenities. I am satisfied that the proposal complies with SPPR 7.

10.3.21. As regards units mix SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. As set out above no restrictions on dwelling mix apply and therefore the unit mix is considered acceptable. In any case the Housing Quality Audit submitted demonstrates that the proposed units both meet and exceed quantitative standards such as floor areas, floor to ceiling height, apartments per core and dual aspect percentage as established in the Apartment Guidelines 2020. I will address the matter of bulk goods storage in section 10.13 Material Contravention below.

## **Conclusion**

I note the policies and objectives within *Housing For All* and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site.

The observers argue that the disproportionate number of BTR units proposed will not foster a stable community as it will lead to a transient population of renters with no long-term stake in this community in general or with their immediate environment. The Development Plan establishes that in order to mitigate against undue segregation of

tenure type, new developments should avoid an over proliferation of a single housing tenure to accommodate the needs of a mixed and balanced community. Whilst I consider the BTR model offers an alternative residential option for future residents with the benefit of shared communal amenities I am mindful of the need to ensure a balance of housing tenure in the area.

In my view this development, if permitted would result in over-proliferation of Build to Rent in this area when combined with the 244 units (ABP 311190-21) currently under construction within 220m of the site. I do not consider the development would contribute to the variety of dwelling types and as such the proposal cannot be considered consistent with Policy PHP27 which seeks to ensure “*a wide variety of housing and apartment types, sizes and tenures is provided throughout the County*”. I consider the cumulative impacts of a further 358 BTR units as proposed in one area would be contrary to the requirements of section 4.3.2.3 and Policy Objective PHP 28 as it relates to the avoidance of the proliferation of built to rent in any one area.

#### **10.4. Design Strategy – Design & Layout, Public Realm/Open Spaces**

- 10.4.1. The development consists of 355 No. of studios, 1, 2 and 3 Bed Apartments within a series of 6 No. Buildings to the south of the existing pond on site. The buildings generally step up from 3/4/5/6 storeys at the perimeter of the site to 8 storeys over basement in the centre. In addition to the north (of the pond) it is proposed to provide 8 No. 4 Bedroom Houses and 3 No. Apartments within the reconstructed Chesterfield House with one unit containing the refurbished protected ‘Drawing Room’.

##### *Design and layout*

- 10.4.2. The site is divided into a number of character areas described as follows:

Character Area 1 - On entering the development, you are greeted by a low-rise residential scheme of housing and the apartments of Chesterfield House.

Character Area 2 - Adjacent to this is an active, public open parkland that faces onto the existing central pond to the south and Chesterfield house to the north of the site. Proposed winding paths surround existing tall trees dotted around this leafy, landscaped, south facing area.

Character Area 3 - A woodland natural play area is located to the East of the public park. It provides a natural children’s playscape exploiting the existing woodland

context. It is designed to be well lit, safe and is actively overlooked.

Character Area 4 - A central courtyard space is at the heart of the scheme with a deck covered space at the north of the courtyard for residents to enjoy views of the pond. There is access at this position also to the residential amenities. The central courtyard is c.34m in depth allowing for a planted garden for residents and visitors to enjoy.

Character Area 5-8 -There are a series of smaller gardens peppered around the scheme, a Potager, Orchard, Toddler Play Area and BBQ space etc to provide outdoor social opportunities for residents to enjoy.

10.4.3. The general area surrounding the site is characterised by relatively large single-family houses set in gardens, the buildings range from historic structures associated with the early development of Blackrock, to more mature modern housing estates and apartment buildings. Building heights are predominantly 2/3-4 storeys. A detached residential property called 'Renesca' occupies a large site immediately north of the subject site (Planning permission has been granted for a 3 to 5 storey apartment scheme of 33 units on the site of the 'Renesca' property DLR D19A/0292 / ABP-304913-19). To the south is Clonfadda a gated apartment (up to four storeys), and own-door development. Cherbury Court to the east comprises a mix of apartment and dwellings ranging from two to four storeys. Booterstown Park is to the northwest, Redwood Grove is located to the north-east and Southwood Park is to the southwest. Whilst I accept the development will introduce a new form of development on this site, I consider that the character of the area does not rely on replicating the form of infill development which took place in previous decades and the development must be considered in the context of the evolving environment and recent grant of planning permission in the area.

10.4.4. The Urban Design and Architectural Report submitted sets out that the six apartment buildings on the southern section of the site are inset from the site boundary and surrounded by courtyards and gardens on all sides and will form 'pavilions in the landscape' reflective of the prevailing character of the surrounding area. The massing of the blocks seeks to respond to the existing conditions of the context with heights that step from a lower level at the existing residential houses. The blocks are set back to reduce visual impact on surrounding context and to maximise daylight potential to



the courtyard spaces and apartments. Blocks 1-6 which are arranged around a central open space that is accessed from a pedestrian bridge over the enlarged pond.

- 10.4.5. The apartment blocks are laid out to provide an open visual axis from the southern façade of Chesterfield House. The scheme generally achieves good separation between the proposed blocks 1-6 that meet and exceeds the general 22m rule (section 12.3.5.2). Section 12.3.5.2 states "*In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.*". In accordance with Section 12.3.5.2, a detailed daylight assessment has been carried out. There are instances where opposing elevations fall below the recommended distance and to mitigate undue overlooking between units at these locations, the placement of windows and balconies is carefully considered. In dual aspect units where there is a reduced separation distance there is a primary aspect and a secondary aspect with windows therein providing a primary or secondary function. Primary function is the main living space opening onto a balcony or the window of a bedroom. Secondary function is the additional small side window into a dual aspect living space. There are a small number of locations where secondary windows face primary windows across a reduced distance. In these cases, the secondary windows are smaller in scale, offset and the secondary window glazing is frosted for assurance of privacy for both units. In single aspect units, there is only a primary aspect, and all windows therein provide a primary function. I am satisfied that internal layout between the blocks provides for sufficient separation distanced between the apartment block and any shortfall appropriately mitigated by the development design.
- 10.4.6. The external finishes include two contrasting brick tones that graduate upward from the base to a textured render system at the top of the buildings. This is complemented with accents of metal in the balconies.
- 10.4.7. To the north all proposed houses address the street with gable fronted facades that turn to entrance fronts along the new avenue with Chesterfield House. The eight no. contemporary designed houses are laid out in four no. semidetached units positioned back-to-back. Chesterfield House sits to the south of the proposed houses. This layout is generally consistent with the existing established pattern of development and therefore acceptable.

- 10.4.8. Overall, I am satisfied that the design and layout is acceptable and in accordance with Section 12.3.1 *Quality Design* of the Development Plan which seeks to promote high quality design and layout in all new development.

*Public Realm /Open Spaces*

- 10.4.9. The public realm is divided into 3 key elements - Chesterfield House and the protected drawing room within, the public open space by the pond and the central courtyard of the southern apartment scheme. Public Open Space is allocated to the area south of Chesterfield House and incorporates the ornamental pond and public playground. In total, it occupies 5,260 sq.m or 16.6% of the site. Communal Open Space is predominantly to the south of the site, and it encompasses an area of 11,260 sq.m or 35.6% of the site.
- 10.4.10. The applicant sets out that careful consideration has been given to the building's setting out, massing and scale in the context of enhancing the public realm, the buildings are seen as giving form to the spaces between. The landscape strategy aims to integrate the new built development with the existing landscape and create a network of attractive and useable open spaces while contributing to the local biodiversity. The gardens and pond to the south of Chesterfield House are to be retained and enhanced. The character of the landscape proposed is one of copses of trees, lawns, seating spaces and waterside terraces. The landscape/public realm context utilises the existing site features including Chesterfield House, the pond-side public open space, the bridge that leads to a viewing terrace, to the steps up to a large urban court, the scheme offers a variety of distinct and attractive features. This pond will improve the local habitat diversity, provide storm water attenuation and create an attractive landscape feature.
- 10.4.11. The layout of the site facilitates interconnectedness. The site entry point on Cross Avenue is shared by pedestrian, cyclist and vehicles. The entrance road is designed to accommodate required vehicular functions such as drop-off and set down. For the apartment blocks vehicular parking is accommodated in the basement, freeing up the courtyards to be a leisure space shared by pedestrians and cyclists. Two future access points are proposed to promote the principle of permeability, one to the south to Clonfadda and the other to the west to provide connection with Cherbury.
- 10.4.12. The observers have raised concerns that these connections have not and will not be

agreed. The 'Design Manual for Urban Roads and Streets' (2013), provides comprehensive guidance in relation to developing and enhancing the public realm. The 'Design Manual for Urban Roads and Streets' emphasises particularly how the delivery of permeability and high-quality public realm can assist the promotion and delivery of sustainable communities; this is reinforced in Section 4.4.1.1 Policy Objective PHP35: Healthy Placemaking of the Development Plan. I note the applicant does accept that these connections 'may be delivered subject to third party consent', in any case provision has been made within the scheme to provide for these connections and this is welcome and appropriate in the context of proper planning.

10.4.13. Regarding the Communal Open Spaces, I note the ground level of the apartment blocks and their adjacent landscaped communal courts is several metres above entrance road level. This level change marks the threshold of public to semi-private in the scheme. In the semi-private zone, the pedestrian and cyclist are prioritised. At the centre of the site, a pedestrian bridge over the pond leads to a communal terrace, from which steps or lift lead up to the main communal courtyard of the scheme with views towards Chesterfield House. This is complemented by two secondary tree-lined routes, one along the eastern boundary skirting the pond, the other along the western boundary providing direct access to crèche. There is an orbital path around the perimeter offering the option of a looped walkway route.

10.4.14. Access to the proposed development will be via the existing entrance on Cross Avenue. The existing pier and curved wing wall at the west side of the entrance onto Cross Avenue that is within the control of the Applicant will be retained. The east side wing wall and pier currently behind solid ply hoarding is outside the control of the Applicant. It is proposed to construct an ornate patterned steel panel incorporating signage that will extend into the subject site.

10.4.15. I note the Sustainable & Energy Planning Reports and associated mechanical and electrical layouts and the concerns raised by the Transportation Planning section that the lighting design is not currently acceptable and that an altered design to increase the minimum lighting level to 1 lux and include the location of trees within the scheme is required. I am satisfied that this matter can be addressed by way of condition should the Board be minded to grant.

10.4.16. The appellant contends that the proposed development of the Chesterfield lands has

had regard to the character of the area, particularly as efforts have been made to retain as many of the quality mature trees at the site as possible, and reinforce the landscaping, whilst facilitating the development of the lands. The protected structure and the new apartment block within which it is incorporated, maintains a strong visual connection with the landscape by using a ha-ha ditch and hedge as the boundary treatment. The setting of the new Chesterfield House is maintained by this connection with the garden layout and vista. I am satisfied that the general layout of the scheme is acceptable, the qualitative and quantitative provision of public open space and communal open space is acceptable and in accordance with section 4.4.1 Quality Design and Placemaking of the Development Plan. Consistent with section 4.1.4 A DMURS statement accompanied the planning application.

10.4.17. The recently published Sustainable Residential Development and Compact Settlements *Guidelines for Planning Authorities* promote interlinked public open spaces designed to cater for a range of active and passive recreational needs (including play, physical activity, active travel, cultural uses and community gardens and allotments, as appropriate to the context) and to conserve and restore nature and biodiversity. In my opinion, the landscaping scheme proposed will provide a variety of multi-functional open spaces for the new residential development which are easily accessible from all dwellings and have been designed and organised to encourage active and passive uses of the spaces and provide successful useable spaces within the constraints of the site. All spaces are designed to be fully accessible regardless of mobility and provide accessible pathways across a site with a constraining topography. I am satisfied that the proposed development is in accordance with the Guidelines.

## **Conclusion**

Quality design and healthy placemaking are emphasised throughout the NPF and RSES, improving quality of life for all. Healthy placemaking incorporates high quality urban design with promoting active lifestyles through good quality pedestrian and cycling links, particularly to and from places of work, education and recreation.

I am satisfied that the development provides a successful form of urban placemaking through the design of buildings, the remodelled Chesterfield House, spaces and landscaping and is in accordance with 4.4.1.1 Policy Objective PHP35: Healthy Placemaking of the Development Plan.

## 10.5. Building Heights and Visual Impact

### *Policy Context*

- 10.5.1. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which 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 city cores and 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.
- 10.5.2. Section 2.4 of the Apartments Guidelines states that 'Central and/or Accessible locations' 'are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:
- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
  - Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
  - Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services
- 10.5.3. In relation to building height it is a Policy Objective PHP42: *Building Design and Height* of the Development Plan to:
- Encourage high quality design of all new development.
  - Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).
- In addition, section 4.4 of the Development Plan notes that the Council policy in relation to building height throughout the County is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5).

- 10.5.4. The Building Height Strategy (Appendix 5) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 was prepared in the context of the Urban Development and Building Height Guidelines for Planning Authorities, 2018. The Building Height Guidelines acknowledge that building heights must be generally increased in appropriate urban areas. I note the PA consider BHS3 relevant in this instance. Whilst the site might be within the definition of Policy Objective BHS3, the site is located marginally outside lands defined within BHS 1 given the proximity of the site within 1.2km of a Dart station.
- 10.5.5. Policy Objective BHS 1 supports consideration of increased heights and taller buildings at appropriate locations, including, inter alia, suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route). Policy Objective BHS 3 applies to 'Residual Suburban Areas' and promotes general building heights of 3 to 4- storeys in these locations, BHS3 also states having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. In any case, I am satisfied that there is policy support for increased height at this location subject to suitable controls and where the applicant can demonstrate compliance with the performance-based criteria set out in Table 5.1, contained in Section 5 of the Building Height Strategy (Appendix 5).
- 10.5.6. I am satisfied that national guidance or County Development Plan policy does not place any specific maximum limit of building height or density for this site. The Development Plan BHS has been prepared having regard to the provisions of the national Building Height Guidelines and the performance criteria outlined in Table 5.1 satisfactorily incorporates the criteria associated with SPPR 3 and section 3.1 of the Guidelines. Accordingly, I am satisfied that questions relating to building height, visual amenity and impact in the Protected Structure character will be suitably addressed with reference to the BHS; section 2: Understanding Building Height and Table 5.1 criteria.
- 10.5.7. It is acknowledged that building heights of up to 8-storeys in the southern portion of the proposed development constitute 'taller buildings' as defined in the Plan and may be deemed to materially contravene the policy approach set out under section 4.4 of

Appendix 5, on the basis that part of the site falls slightly outside the 1000 metre/10 minute walk band of the DART station or QBC.

10.5.8. Of relevance, Section 2 of the BHS relates to *Understanding Building Height* and addresses the relationship between building height and conservation areas. Section 4.3 relates to the *Identification of Amenity and Environmental Considerations* including addressing the central issue in relation to our built heritage and sets out that 'new developments should respond to local character and protect and enhance the built heritage and should not have an adverse effect on a protected structure in terms of scale, height, massing, alignment and materials'.

10.5.9. I am satisfied that there is policy support for increased building height at this location. I further note ABP 311190-21 extends to a height of 9 storeys and DLR D19A/0292 / ABP-304913-19 provides for the redevelopment of 'Renesca' up to five floors over basement. Therefore, there is precedent for increased height in the immediate area.

#### *Building Height – Visual Impact*

10.5.10. The appellant has prepared a variety of drawings, studies and photomontage images to illustrate the development and its surroundings. I accept that the development will present a new form and height of development for this area and the proposal would change the outlook, from neighbouring properties and areas.

10.5.11. Of relevance to building height and visual impact are the site levels. Third party concerns were raised about the location of apartment blocks (2, 3, & 4) at the highest point of the site as unacceptable as it fails to utilise in any way the potential of the sloping site to soften the overall impact. The site slopes from south to north with an approximate level difference of 6.4m. The development will include cut and fill on site in order to provide the undercroft parking and FFL's are identified as 27.90 and 28.56 respectively. The layout works with and seeks to restore the original ground levels where practicable, in the context of limiting further landscaping intervention such as retaining walls etc I am satisfied that this is the most appropriate and least intrusive option. I note the subject lands are surrounded on all sides by existing development and that, due to its lack of road frontage, visibility of the application site from the public realm is restricted by intervening development. In addition, the mature tree line that exists along the southern eastern and western boundary is a significant asset as it provides immediate screening to adjacent development. These tree belts rising to

approx. 25m provide a strong visual buffer to the site and as a result only glimpses of the surrounding residences is possible, in particular along the southern boundary of the site.

10.5.12. The LVIA considers the Verified Views from 18 points in the surrounding area. Additional CGIs were submitted as part of the planning application. From the 18 view locations assessed it is established that the proposed development is a noticeable element in 5 views, views C1 – C5. The impact on all 5 views is deemed to be moderate in magnitude. In a further 9 of the 18 views the proposed development is visible as a minor element in the view, views B1 – B9. The magnitude of those impacts' ranges from imperceptible to slight. The LVIA establishes that the proposed development is not visible at all from 4 locations, views A1 – A4.

10.5.13. Some concerns were raised by the elected members that the CGI'S misrepresent the development, I do not agree. On completion the proposed development would represent a marked and comprehensive change to the site from a former detached period residence set within extensive grounds to a significant urban development comprising, 8 no. two and a half storey houses, the redevelopment Chesterfield House and 6 no. blocks ranging in height from 3-8 storeys with associated development. It is unavoidable that a high-density development on a site of c. 3.4 ha in a predominantly low-density urban area will have some significant effects on the landscape and views. I note also that the redevelopment of 'Renesca' fronting Cross Avenue (5 storeys) will be positioned between the subject development and Cross Avenue. The new scheme at 'Renesca' will screen the proposed development from this location.

10.5.14. The appellant contends that the building height proposed is justified on the basis of the location of the site, access to public transport with high capacity and good links to other modes of transport, services, amenities and employment locations. The appellant has assessed the proposed development against the 'Performance Based Criteria' outlined in Table 5.1 of the Building Height Strategy in Appendix 1 of this Statement of Consistency with the Development Plan 2022-2028 and concludes that the development is consistent with the BHS and that the proposed building height strategy has been designed to mitigate significant adverse impact upon neighbouring amenity. The height strategy across the site differs substantially. To the north, the max height is the 2.5 storey houses while the apartment blocks (1-6) in the southern part of the site range from 3-8 storeys over basement. The tallest elements are



concentrated toward the centre of the southern site, away from the existing lower built environment context that exists beyond the proposed development site. This approach makes optimum use of the carrying capacity that exists within Chesterfield with a tapering down to between 3 and 5 storeys toward the boundaries of the site, mindful of the scale of adjacent developments.

10.5.15. The PA in their assessment is generally satisfied that the site is capable of accommodating increased height and comply with the applicable performance-based criteria set out in Table 5.1 of Appendix 5 of the Development Plan subject to revisions including (a) omission of 5<sup>th</sup> floor Block 1 (15 no. apartments units 1-76 and 1-90 inclusive) reducing to a maximum of 7 storeys (b) omission of 3 apartments on 6<sup>th</sup> floor of block 2 (Units 2-26, 2-37 and 2-38) (c) omission of 3 apartments on 6<sup>th</sup> floor of block 3 (3-48, 3-50 and 5-51) (d) omission of 2 apartments on 6<sup>th</sup> floor of block 4 (4-50 and 4-51) (e) omission of 1 apartment on 7<sup>th</sup> floor of block 6 (6-75). The recommended changes provide for further tapering of building heights in order to provide a more 'measured' approach to the building height and reduce the impact on adjoining developments and the outlook from Chesterfield House.

10.5.16. **Block 1** is a maximum of 8 storeys over basement and occupies the largest footprint on the site and reflects the longest elevation, I agree with the PA that the omission of one central floor (level 6) will reduce any overbearing impact of the development particularly from Cherbury Court where the minimum separation distance is ca. 27m and combined with the tiered building approach and the retention of mature trees along the boundary will reduce any negative impacts in my opinion.

10.5.17. As regards the PA's recommendation to omit units from **Blocks 2,3,4 and 6**. In my opinion, having regard to the orientation of the blocks, the tiered design approach proposed and the separation distance both internally within the site and from adjoining development, I do not consider the omission of the units in this instance will materially alter the impact or perceived impact of the development. There is no reduction in overall height as a result of the omission of the units and I am satisfied that the building heights proposed can be facilitated on this site. As regards **Block 5** located to the southeast of the site, this rises from three storeys to a maximum of five. In the context of the site and BHS this is acceptable in my opinion.

*Micro-Climate*

10.5.18. With regard to micro-climatic effects and the third-party concerns raised, the Wind Microclimate Assessment Report concluded that wind flow speeds at ground floor are shown to be within tenable conditions. Some higher velocity indicating minor funnelling effects are found between the Blocks, near the South and North sides of the development. However, the areas can be utilised for the intended use. The proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings. Moreover, in terms of distress, no critical conditions were found for “Frail persons or cyclists” and for members of the “General Public” in the surrounding of the development. I am satisfied that no further assessment of micro-climatic effects is required.

*Impact on Chesterfield House*

10.5.19. The PA have raised a specific concern about the impact of building height when viewed from the protected room of Chesterfield House.

10.5.20. I note the apartment blocks are located to the south of the pond feature at a distance of 70m from Chesterfield House. I note the report from the Conservation Officer considered this to be ‘a good separation distance’. However, the Conservation officer considered that the visual impact of the proposed apartment development on views south from the protected room will be significant and negative. As set out above the PA recommend the removal of the top floor units within Blocks 3 and 6 so as to reduce the overall height/massing and in doing so any negative impact on the setting on this Protected Structure.

10.5.21. The Conservation officer does acknowledge that the principle of high-density development to the south of Chesterfield House has been established by the previous permissions on the site. The proposed apartment blocks will have a visual impact on the views from the protected drawing room, which has hitherto enjoyed an uninterrupted sylvan vista. It is the applicant’s contention, and I would agree, that the impact is only slight as it is mitigated by the stepping of upper floors, the distance of the higher elements from Chesterfield House, and the rehabilitated landscaped garden that stands as a buffer between the two. The applicant sets out that the landscape design south of the protected room is cognisant of the historical garden layout and is informed by the project conservation architect. The connection between the protected room and the garden terraces is maintained through the retention of the general

garden layout, the terraces and the central axis aligned with the house and the two large Cedar trees. The protected room and the new apartments within which it is incorporated, maintains a strong visual connection with the landscape by using a ha-ha ditch and hedge as the boundary treatment. The setting of the new Chesterfield House is maintained by this connection with the garden layout and vista.

10.5.22. It is of relevance that the protected structure is a solitary historic room, contained within a remodelled Chesterfield House. As an internal, private space, the 'original drawing room' contributes little to built heritage curtilage. The heritage value of the room is modest and will enjoy an improved setting on the south side of the remodelled Chesterfield House. This will provide an attractive focal point for the new apartment complex to the south. I accept that the outlook from the room will alter as a result of the development, and this is a default consequence but not a negative consequence of developing the site. On balance, the protected room will enjoy a more appropriate context, the immediately outlook will be a public green space and owing to the separation distance and tired design of the proposed apartment blocks, I am satisfied that the impact will be acceptable and in accordance with section 12.11.2.3 *Development within the Grounds of a Protected Structure* of the Development Plan.

10.5.23. Some concerns were raised about the impact of the 2.5 storey houses of the north of Chesterfield House. However, there is currently a poor relationship between Chesterfield House and the external space to its immediate north. The proposed 8 no. houses will act as a buffer between Chesterfield House and the future apartments on the Renesca site. Having regard to the established general character of the area, I have no concerns in this regard.

*Table 5.1 – Building Height Strategy*

10.5.24. **Assessment of BHS (Table 5.1) Criteria**

At County Level	
Criterion	Assessment
NPF Objectives	I consider that the principle of the proposal within an existing built-up area, close to high frequency public transportation and on lands zoned

	for residential development would assist in securing objectives regarding key urban centres, infill development, and compact growth.
Public Transport	As outlined in sections 10.2.6 and <b>10.9</b> of this report, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.
Character and Public Realm	<p>The site is an infill site and has limited direct connection with the public realm as it is set back from Cross Avenue by c. 50m.</p> <p>I refer the Board to the foregoing sections.</p> <p>Regarding the other requirements of Table 5.1, I note that the application was accompanied by an Architectural Design Statement, and that the applicant's DMURS Statement, Quality Audit, and associated drawings address the requirements of DMURS.</p>
Views and Prospects	Table 8.1 of the Development Plan outlines the views and prospects to be preserved. The proposed development would not interfere with any of these. There are instances where the development would break the skyline and/or form a significant presence in the context of another feature. I have addressed these above.
Infrastructural Capacity	As per sections 10.2 and 10.11.13 of this report, I am satisfied with the capacity of transport infrastructure and social/community infrastructure respectively. The planning authority has not raised any objections with regard to drainage and water services and I note that Irish Water correspondence has confirmed the feasibility of the proposal in respect of water supply and wastewater disposal.
<b>At District/Neighbourhood/Street Level</b>	
Response to natural and built environment and contribution to neighbourhood / streetscape	<p>Table 5.1 of the BHS outlines the need to demonstrate compliance with the 12 criteria set out in the Urban Design Manual of the Sustainable Residential Development Guidelines 2009, as well as DMURS.</p> <p><b>** While the Sustainable Residential Development Guidelines 2009 have been superseded by the Compact Settlement Guidelines 2024, the accompanying manual has yet to be published. The Urban Design &amp;</b></p>

Architectural Report accompanying the planning application addresses the 12 criteria set out in the Urban Design Manual (2009)

Context: The proposed development will contribute to the neighbourhood and streetscape by delivering public open spaces, playground and childcare facility. The site has been heretofore in private ownership and not accessibly by the public.

Connections: The proposed buildings do not adjoin the public street. However, the proposal will result in the site being opened to public access. The scheme includes a range of pedestrian/cycle connections within and around the site. Footpath connections are available along Cross Avenue and the site is accessible to public transport. The site is also close to employment locations and other social/community services.

Inclusivity: The proposed development introduces 358 Apartments and 8 no. conventional houses in a part of the city consisting predominately of conventional houses, the site is suitable for this form of development due to its proximity to the DART, the services existing in the locality and provided within the scheme. In this regard I refer the Board to section10.3 above relating to the introduction of more BTS apartments within the scheme. The proposed development results in a new form of tenure in the locality and would add diversity to the existing housing stock. The scheme also provides a Childcare Facility which will be open to the public.

Variety: In principle, I am satisfied that the proposal would retain a suitable mix of uses on the site subject to the introduction of additional BTS apartments and would integrate with other uses in the surrounding area. The redevelopment and integration of the 'Drawing Room' of Chesterfield House and the public accessible open space would improve the attractiveness of the existing uses on site and provide an amenity for the wider community.

Efficiency: The proposed higher density would be a more efficient use of this underutilised site in an accessible intermediate urban location.

The proposal incorporates SuDS drainage principles, and the Operational Waste Management Plan outlines suitable recycling proposals. The communal areas would be landscaped for amenity/biodiversity purposes and to protect from elements such as wind.

Distinctiveness: The proposals would be significantly different to the mature housing in the area and would provide a recognisable landmark feature. However, at the more localised neighbourhood/street level, I consider the omission of level 6 on Block 1 would be a positive addition (Refer *Building Height – Visual Impact* above). The integration of Chesterfield House and ‘Summer House’ represents a significant and positive contribution to the scheme and the architectural and cultural heritage of the site.

Layout: The proposed development provides for an apartment scheme within an existing mature landscape to the south of the site with the 8 no. conventional houses and remodelled Chesterfield House to the north divided by an ornamental pond. The positive attributes of the site, particularly mature trees, are retained and landscaping reinforced. Landscaping is designed to encourage active engagement with the different character areas, including the more formal central open space, more natural peripheral walks. I note the PA raised no concerns as regards the layout of the scheme.

Public Realm: The proposed buildings do not adjoin the public street. However, the proposal will result in the site being opened to public access. Traffic on the existing avenue will remain limited, with most traffic directed to undercroft and Basement Level car parking. Thus, the southern section of the site will retain its character as a shared space.

Adaptability: I note that the apartments would be fully accessible, and all exceed the minimum size standards as per the Apartments Guidelines. They would be energy-efficient and designed in compliance with Technical Guidance Document L - Conservation of Fuel and Energy – Dwellings (2022) in response to the challenges anticipated

	<p>from a changing climate. A Sustainable&amp; Energy Planning Report accompanied the application. I am satisfied that the layout could be easily adapted to provide for a different mix of unit types.</p> <p><u>Privacy &amp; Amenity</u>: I am satisfied that the apartments would be provided with suitable standards of private amenity space, dual aspect, acoustic insulation, privacy, and storage.</p> <p><u>Parking</u>: I would have no objections to the proposed arrangements in respect of convenience and security. I refer the Board to section 10.9 below.</p> <p><u>Detailed Design</u>: As set out above I have concerns as regards the intervisibility of the proposed development by virtue of the height of Block 1. I am satisfied that the reduction in the height of Block 1 will provide an appropriate transition in scale and form relative to the immediate adjoining development.</p>
Building Form	<p>I am satisfied that the individual Blocks have been designed to a high standard including finishes proposed and provide for a variety of building height, form, massing, and articulation. I have outlined my concerns as regards Block 1. As set out above, I am satisfied that the reduction in the height of Block 1 will avoid any monolithic appearance.</p>
Materials	<p>Drawing upon the rich heritage in the locality, a palette of materials has been carefully chosen to include brick, render and metal balconies. A Sustainable&amp; Energy Planning Report has been prepared outlining the durability and details of materials to be used. I am satisfied that the quality of the proposed materials would be acceptable.</p>
Public spaces, thoroughfares, and water frontage.	<p>The proposed development does not adjoin any public spaces or key thoroughfares; however, it does provide access to a previously private site, including new public open space.</p> <p>The integrated landscape design complements the architectural proposal buildings in a landscaped parkland setting. High quality hard and soft landscaping areas, pergolas, raised planters and integrated outdoor seating is provided to ensure that there is something to be</p>

	<p>enjoyed year-round and while new planting and trees mature over time. The waterside seating area by the pond and meandering paths under the canopy of existing trees take existing features and bring them into use for the public. Programmed elements like the natural play area, toddler play area and potager area invite residents and the public to use the outdoor spaces. The landscape design also informs the character of each courtyard space. In my opinion, the integration of the 'pond' is a positive attribute of the development.</p>
Legibility	<p>The proposed buildings do not adjoin the public street. However, the proposal will result in the site being opened to public access. Traffic on the existing avenue will remain limited, with most traffic directed to undercroft and Basement Level car parking via the entrance avenue off Cross Avenue with limited traffic access Chesterfield House apartments and the 8 no. houses. Cycling and pedestrian connections are provided for along the avenue.</p>
Mix of Uses / Buildings	<p>As outlined in response to the Urban Design Manual criteria above, the proposed development provides for an apartment scheme, 8 no. conventional houses and remodelled Chesterfield House in addition to the childcare facility, I am satisfied with the proposed mix of uses and building/dwelling typologies.</p>
Enclosure	<p>The relationship between the existing and proposed buildings and internal routes has been carefully considered in the design of the scheme. A formal central public open space has been retained to the south of Chesterfield House to address the vista to and from the Drawing Room window. The landscaping including the retention of two Yew trees around the central open space have been selected to frame that space.</p>
Urban Grain	<p>The proposed development provides for an apartment scheme within an existing mature landscape setting, the positive attributes of the site, particularly the built heritage and the mature trees, are retained and reinforced. Landscaping is designed to encourage active engagement with the different character areas, including the more formal central</p>



	open space, more natural peripheral walks. The public uses are distributed throughout the site such that the main routes through the site are inadequately designed creating an attractive and secure public realm.
Character and Identity	As outlined above, the proposed development will open the site up to public access, allowing the public to enjoy the amenities of the central open space. As such the development will reflect a distinctive and unique sense of character and identity.
Neighbouring Properties	In general, I am satisfied subject to a reduction in the height of Block 1 that there would be no unacceptable impacts on surrounding properties.
<b>At Site/Building Scale</b>	
Daylight, ventilation, views, and sunlight	As outlined in section 10.6 of this report, I note the PA raised no concerns in relation to daylight impacts, I would have no objections regarding ventilation or the dual aspect arrangements/views within the apartments.
BRE Guidance on Daylight and Sunlight	See above.
Overlooking, overbearing, overshadowing	Subject to the reduction in the height of Block 1, I do not consider that there would be any such unacceptable effects on adjoining properties.
Built Heritage	I refer the Board to the foregoing section commencing 10.2.4 and section 10.7
Carbon Emissions	The application includes a Sustainability & Energy Statement. This states that the development is compliant with Part L 2021 (NZE) and, conservation of fuel and energy in targeting an A2 BER (Building Energy Rating).
<b>County Specific Criteria</b>	

Coastal Character	No concerns were raised as regards impact on the 'Coastal Fringe' as defined in the CDP. Owing to the intervening lands uses and distance from the coast (ca. 1km), I have no concerns in his regard.
Mountain Landscape	No impact on Mountain Landscape has been highlighted
Specific Requirements	The application contains sufficient information for the purposes of this appeal and pre-planning requirements have been addressed.
Microclimatic Impacts	In addition to the sunlight/daylight assessment, a Wind Impact Assessment has been completed. It demonstrates that the wind environment will be suitable for the intended use of each area/building and would not introduce any critical impact on surrounding buildings/areas.
Flight Lines	Consistent with the applicant's Ecological Assessment, I would accept that the site is not located within a sensitive area in terms of bird flight paths. The buildings are of limited height compared to migratory flight paths and the facades are varied to minimise collision risk.
Telecommunication Channels	The proposed development is not anticipated to have any impact on telecommunication channels or microwave links due to its location
Safe air navigation	I would accept that the site is not located within any public safety or noise zones and that the proposed development would not impact on the safe navigation of aircraft.
Environmental Assessments	As addressed elsewhere in this report, the application includes an NIS and A combined EclA and Bat Report. I refer the Board to sections 10.8 and 12 of this report.
<b>Additional criteria for larger redevelopment sites with taller buildings</b>	
Place Making	The proposed development provides for new public open spaces in this previously private residential site, which will result in new destination spaces in the locality.

### *Summary*

10.5.25. I am mindful that the building heights will contribute to a significant increase in the

scale of residential development in the area over and above the predominantly 2/3/4 storey established heights and that there will be a relatively high intervisibility between the existing and proposed development by virtue of the height proposed and the potential for cumulative effects are compounded by site levels.

10.5.26. Having regard to the height of Block **1 and 6**, the intervisibility of the blocks immediate to the site and in a wider context, I consider it appropriate that Block 1 be reduced by on central floor level (level 6) at a loss of 15 units. While block 6 also extends to 8 storey I am satisfied that this height is acceptable in the context of the location of the block centrally within the southern portion of the site set back from adjoining site boundaries and the increased height will add architectural interest and character to the site, in my opinion.

### **Conclusion**

I consider the development of the site as a residential development will provide for the compact urban development of this accessible, serviced site, which is located in proximity to an existing service centre and accessible to employment centres. The proposed development provides high quality form of residential accommodation with a wide range of resident's amenities. It also provides a planning gain for the area by opening the site to public access for the first time. The active use of Chesterfield House is consistent with best conservation practice ensuring the relevant features in this case the 'Drawing Room' is protected.

The observers argue that the development is contrary to Policy Objective PHP20 to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments. I accept that the proposed development would be of a significantly different character to the mature residential area however, subject to design modifications as outlined above, I am satisfied that the proposed height and scale can be accommodated, and the development would provide an appropriate transition between the mature residential area and this modern apartment development in accordance with the BHS (Table 5.1) criteria of the Development Plan. It is not considered the scale, nature or design of the development is conflicting with other development within this diverse vista and overall, the magnitude of visual impact is

considered to be Low/negligible, but of a marginally negative quality, neutral and negative.

## **10.6. Residential Amenity**

### *Daylight, Sunlight and Overshadowing*

- 10.6.1. Section 5.3.7 of the Compact Settlement Guidelines 2024 states the provision of acceptable levels of daylight in new residential developments is an important planning consideration, in the interests of ensuring a high-quality living environment for future residents. It is also important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties. The Guidelines state that regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2023 also state that planning authorities should have regard to these BRE or BS standards.
- 10.6.2. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that 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.
- 10.6.3. The applicant submitted a Daylight, Sunlight and Overshadowing Report. This report was undertaken with regard to Dun Laoghaire Rathdown County Council (DLRCC) planning policy and, the advice and recommendations set out in the Building Research Establishment (BRE) report entitled 'Site layout planning for daylight and sunlight: A

guide to good practice - 2011' (referred to in this report as the "BRE guidelines"). Climate-based daylight modelling against European Standard EN 17037 and British Standard BS EN 17037 has also been completed.

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

#### *Internal Daylight and Sunlight*

- 10.6.5. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BS8206 – Part 2 sets out recommended targets for Average Daylight Factor (ADF), these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.
- 10.6.6. The layout of the proposed apartment units includes a combined kitchen/living/dining (KLD) room. As these rooms serve more than one function the 2% ADF value was applied to the KLD rooms. The applicant has also assessed the development against the alternative 1.5% ADF. In total all 971 habitable rooms were assessed (full room depths), regardless of orientation:

Room Type	Average Daylight Factor Test: Assessment 1							
	Applying 2% for LKDs and Studios and 1% for Bedrooms							
	Number of Rooms Above ADF Criteria							
	Block 1	Block 2	Block 3	Block 4	Block 5	Block 6	Chesterfield House	Town Houses 1-8
Living/Kitchen/Dining Rooms & Studios	57 Rooms	32 Rooms	32 Rooms	40 Rooms	21 Rooms	54 Rooms	4 Rooms	15 Rooms
Bedrooms	179 Rooms	62 Rooms	82 Rooms	75 Rooms	36 Rooms	114 Rooms	6 Rooms	40 Rooms
TOTAL	236 Rooms (84%)	94 Rooms (94%)	114 Rooms (85%)	115 Rooms (91%)	57 Rooms (88%)	168 Rooms (86%)	10 Rooms (83%)	55 Rooms (100%)

- 10.6.7. The results across all proposed blocks show that approximately 88% of habitable residential rooms will enjoy good levels of daylight when using the target criteria of 2% for a Living/Kitchen/Dining room (full room depth). These increases to 94% when applying the alternative target criteria of 1.5% for a Living/Kitchen/Dining room (full room depth).
- 10.6.8. The report notes that rooms on the lower two levels of Blocks 1, 3 and 6 will achieve lower levels of internal daylight amenity and that many of these rooms may require supplementary electric lighting when in use for much of the year. The report sets out the front portions (i.e. the living/dining area) of the majority of these rooms should achieve higher levels of daylight of circa 200 lux for circa 50% of the year according to the BS EN 17037 analysis.
- 10.6.9. The no skyline (NSL) results demonstrate that approximately 76% of all rooms will achieve daylight distribution to 80%+ of the room areas in accordance with the BRE guidelines. 92% of all rooms will achieve a daylight distribution of 50%+, with the majority of the front portion of these rooms (i.e. the living/dining areas) achieving good levels of daylight distribution.
- 10.6.10. Those rooms that do not meet the suggested ADF and NSL criteria are materially influenced by projecting balconies overhead which restrict the quantum of direct daylight penetrating deep into the LKD rooms. However, these balconies do provide future occupants with high levels of external daylight amenity. The applicant argues and I agree that there is a trade-off between achieving good levels of internal daylight amenity to all areas of proposed rooms (i.e. living/kitchen/dining spaces within LKD's), and the provision of external private amenity spaces.
- 10.6.11. The APSH results show 74% of windows orientated within 90 degrees of due south (70% of windows are orientated within 90 degrees of due south) will meet the BRE criteria for winter sunlight, and 68% of windows will meet the BRE criteria for total (annual) sunlight. It is argued that the reduction in APSH striking the window must be offset by the benefits provided by the balconies, which in most cases provide high levels of private external daylight and sunlight amenity to future occupants.
- 10.6.12. In accordance with Section 3.2 of the Urban Development and Building Height Guidelines (2018), compensatory design measures have included in the proposed development:

- Increased head heights and window widths
- placement of balconies to ensure good levels of sunlight where possible.
- addition of windows where possible
- Reductions in the depth of rooms
- Consideration of lighter coloured facades opposite inward facing units to better reflect light into proposed units.
- Orientation and outlook of proposed units: the majority of apartments have a westerly, southerly or easterly aspect, which overlook a landscaped context with good levels of sunlight amenity.

10.6.13. Having regard to the range of compensatory design measures proposed, I am satisfied that with over 88% of spaces meeting the ADF criteria (full room depth: 2% target for LKD's and 1% for bedrooms); and 94% of spaces (full room depth) meeting at least 1.5% ADF for LKD's and 1% for bedrooms, the daylight performance of the development is acceptable for this type and scale of development on this urban infill site.

10.6.14. I further note that Sun hours on ground (SHOG) analysis found that 79% of balconies will comply with the recommended BRE guidelines, achieving two or more hours of direct sunlight to at least 50% of their areas on 21st March. This increases to 99% by the 21st of June. Most of the balconies that do not achieve 2hrs of sun on the 21st of March, do achieve 2hrs of sun to a smaller portion of the balcony area. Similarly, all proposed communal amenity areas will meet the BRE guidelines by achieving 2 hours of sun on ground to over 50% of the assessed area on 21st March, thereby comfortably meeting the BRE target criteria.

10.6.15. In my opinion, this is considered a good level of compliance for a proposed scheme of this size and increasing density, when having regard to the range of compensatory design measures and the planning policy requirements, It is my view that this approach is acceptable.

#### *Dual Aspect*

10.6.16. SPPR 4 of the Apartment Guidelines 2023 establishes that In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50%

dual aspect apartments in a single scheme. 51% of proposed development are dual aspect including:

- 175 apartments across Blocks 1-6
- 3 no. apartments in Chesterfield House
- 8 no houses

10.6.17. There are a very limited number (12 no.) of north facing, single aspect apartments, these units overlook the pond and landscaped areas as per Par. 3.18 of the Apartment Guidelines (2023). By way of compensation each unit is provided with large full height glazing to the combined living, kitchen, dining (LKD) spaces and bedrooms. The average daylight factor (ADF) results for these units demonstrate that this mitigation is effective with all bedrooms significantly exceeding the 1% target and 9 of the 12 LKDs meeting the 2% target. The 3 no. LKDs that do not meet the 2% target are at least 82% of that target and all exceed 1.5%. In this context I am satisfied that the units are acceptable.

*Neighbouring Daylight, Sunlight and Overshadowing Effects*

10.6.18. The results of the technical analysis indicate high levels of compliance with the target criteria set out in the BRE guidelines, with 98% VSC (Vertical Sky Component) compliance; 92% NSL (No Skyline) compliance; and 98% APSH (Annual Probable Sunlight Hour) compliance.

10.6.19. Analysis found that within each of the neighbouring properties, three principal windows (located within Merrion and 43-52 Cherbury Court) and one secondary window (located within 13 Clonfadda Wood), experience a VSC reduction below the BRE target criteria (i.e. less than 27% VSC retained, and a reduction of greater than 20% its existing VSC value).

10.6.20. The report notes that the window to 13 Clonfadda Wood is a smaller secondary window and the BRE guidelines suggest should be given the principal consideration. The main window to this room meets the BRE guidelines and therefore it can be considered that the effects upon this room can be considered acceptable. The three main windows within Merrion (also known as 69-84 Cherbury Court and 43-52 Cherbury Court) will depart to a minor extent from the BRE guidelines reduction criteria (i.e. a reduction of greater than 20% its existing VSC value), whereby the reductions



exceed the criteria by a maximum of 1.17%. This is a minor reduction and reflect a minor adverse change only.

10.6.21. With regard to the daylight distribution (NSL) assessments, eleven rooms will experience reductions beyond the BRE guidelines six rooms within Clonfadda Wood – Apartment Block 5, and a further five within Merrion. The BRE guidelines suggest that a room should enjoy good levels of daylight distribution if 80% of the working plane is in front of the No-Skyline (NSL). Each of these eleven rooms will continue to enjoy a NSL to over 50% of their room area with the proposed development in place and I agree with the applicant that although the reductions are beyond the BRE guidelines, the effects are isolated and could be considered acceptable with the increasing density of the area.

10.6.22. The sunlight (APSH) results show that two rooms experience reductions beyond the BRE guidelines. One room is located on the ground floor of 5-6 Southwood Park. This room is served by two windows; its main window (which is north-facing) experiences a reduction beyond the BRE guidelines, however, its secondary window (which is south-facing) retains very good levels of sunlight in accordance with the BRE guidelines. It could therefore be considered that this room as a whole would continue to enjoy very good levels of sunlight amenity. The second room is located on the ground floor of 43-52 Cherbury Court. This room is served by one window which meets the BRE guidelines for the total APSH yet falls short on the total winter sunlight hours by 3%. Notwithstanding, I am satisfied that this room will continue to enjoy good levels of sunlight for most of the year.

10.6.23. The overshadowing results show that with the proposed development in place, the residential gardens surrounding the site should continue to enjoy good levels of direct sunlight, with all (100%) in accordance with the BRE guidelines.

10.6.24. Some third-party concerns were raised that the sunlight/daylight analysis does not include any analysis of the permitted Renesca development (ABP-304913-19) and that it is not possible for An Bord Pleanála to properly assess the extent of the overshadowing impact on the permitted Renesca scheme. I accept that that development does not include an analysis of the impact on the permitted Renesca development, and the houses are located to the south of Renesca. The development provides for 2 no. 2.5 Storey (9.425m in height) dwelling houses adjacent to the shared

boundary. However, the proposed houses are recessed from the shared boundary by approx. 2m and with no overlooking windows and do not occupy the entire boundary length allowing light through. Such a layout is not uncommon in an urban context and in my opinion the proposed building height would not have a detrimental impact on Renesca or the proposed communal open space to the south of the site.

10.6.25. On balance, there is the high level of compliance in relation to daylight, sunlight, and overshadowing impact upon neighbouring receptors, and any minor impact to light amenity must be balanced against the development of the site and the need to increase density and the provision in line with national policy.

*Separation Distances, Overlooking and Overbearing Impact*

10.6.26. As noted above, the scheme comprises 6 no. urban blocks (Blocks 01-06) located to the south of the site. The blocks range in height from 3 - 8 storeys and vary in scale and massing to respond to the existing adjacent properties.

10.6.27. Concerns are raised by third parties that the scale and height of the proposed development and the proximity of the blocks to the site boundaries would negatively impact the existing residential amenities in terms of overlooking and overbearing impact. The PA in their assessment is satisfied that the proposed siting of the apartment blocks relative to site boundaries, landscaping, sunlight and daylight analysis are adequate to protect against overshadowing impact and undue overlooking of adjacent properties.

10.6.28. With respect to separation distances from existing adjacent development, the proposed layout achieves the following:

Block No.	Distance (m)	Direction/Location
1	28.81	West – Dwelling at Cherbury Court
2	27.03	West – Cherbury Court
	27.15	South-West – Clonfadda Wood
3	36.66	South – Clonfadda Wood
4	34.51	South – Clonfadda Wood
	23.68	South-East – Clonfadda Wood
5	36.40	South-East – Clonfadda Wood
	28.04	East – Southwood Park
6	40.49	East – Southwood Park

10.6.29. Section 12.3.5.2 *Separation Between Blocks* of the Development Plan sets out that all proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows. The proposed development provides in excess of 22m in all instances. Furthermore, I draw the Boards attention to SPPR1 of the Compact Settlement Guidelines which stipulates *"It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application a minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level shall be maintained"*.

10.6.30. I have already set out my concerns as regards Block 1 above (section 10.5.16). As regards the remaining Blocks 02-06 having regard to the separation distances ranging from a minim of 23.68m to a maximum of 40.49m, the tired building height approach along all site boundaries, building alignment, proposed boundary treatment and the retention of mature trees, I do not consider these blocks will result in any significant negative overlooking or overbearing impact and are acceptable in accordance with SPPR 1 of the Compact Settlement Guidelines and section 12.3.5.2 of the Development Plan.

10.6.31. Some concerns well also raised about Houses H1 and H8 which are positioned less than 1.85m from the shared boundary with Renesca. The houses are noted to be 9,425mm in height and 13.8m long. The combined length of three storey blank elevation of Houses H1 and H8 is 27.6m of the length of the shared boundary. I note H1 and H2 are located 15.5m form the permitted redevelopment of Renesca (D19A/0292 /ABPPL06D/304913) which extends almost the entire length of the sharded boundary. The new houses are orientated east-west to minimise the overlooking effect from the permitted apartment development on the neighbouring site to the north. They maintain at least 22 metres between rear opposing first floor

windows and this provides privacy while creating rear gardens that receive ample sun throughout the day. All of the semi-detached homes have direct access to their rear gardens. All houses have their front living room screened from the road by a combination of planting, parking and recessed entrances while the kitchen and dining areas look onto private gardens to the rear and receive ample sun throughout the day. I am satisfied that the design and layout of the scheme provides for adequate residential amenities for the 8 no. semi-detached houses to the north of the site.

## **Conclusion**

As outlined above the proposed development does not achieve all of the targets set out in the BRE, with particular regard to the ADF for some of the rooms within the proposed scheme and the impact on VSC and APSH for some of the surrounding properties. The Compact Settlement Guidelines state that necessary regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. It is acknowledged in the Guidelines that in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development.

Furthermore, as set out above the Building Height Guidelines establish that where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. Throughout the Daylight and Sunlight Reports submitted the applicant has provided a clear rationale for alternative and compensatory design solutions. The information provided indicates that access to daylight and sunlight formed an integral part of the design approach and that the design team endeavoured to maximise sunlight/daylight within the scheme and ensure a minimal impact on existing adjacent properties.

While it is noted that the scheme does not achieve all recommended standards, it is my opinion that this development results in wider planning benefits, such as the

delivery of a significant quantum of housing, connectivity through the site, a high quality public open space and the comprehensive development of an underutilised serviced site in the urban area, which would support the consolidation of the urban environment. Therefore, the shortfalls outlined above are considered acceptable in this instance.

#### *Noise and Disturbances*

10.6.32. Concerns are raised by third parties regarding potential noise and disturbance from the non-residential uses, including the childcare facility and the BBQ area. I note the EHO recommends a condition be attached as regards baseline noise levels. It is my view that the operational phase of the development would not give rise to levels of noise that would be inappropriate in a residential context within a suburban area. Notwithstanding this, in the interest of residential amenity I agree with the planning authority that a condition should be attached to any grant of permission restricting the hours of operation of the non-residential uses to ensure they do not cause undue noise disturbance to existing and future residents. It is also recommended that a condition be attached that the management of the community facility be agreed with the planning authority.

10.6.33. Regarding concerns raised about light pollution. The provision of residential development including apartments is not uncommon in an urban area and having regard to the separation distances identified it is not anticipated there will be significant light overspill.

10.6.34. Overall, it is my view that the proposed scheme would not negatively impact on existing residential amenities in terms of undue noise, light overspill or disturbance during the operational phase. The issue of construction related noise is addressed in section 10.9. below.

### **10.7. Impact on Built Heritage - Chesterfield House & Gardens**

10.7.1. Only a portion of the original Chesterfield house survives, within a large and predominantly new house that was constructed during the 1970s. On the record of protected structures Chesterfield is described as 'original drawing room' which refers to a fine L-shaped room at raised ground floor level that is supported on a room of similar size and shape on the lower ground floor level (RPS 171). As set out above, the modifications and additions implemented during the 1970s were constructed to

pastiche-style design diminishing the character and setting of the historic drawing room. Of relevance, in 1991, almost twenty years after the reconstruction, Chesterfield was first listed as a house, but the listing description was subsequently changed in 2004 to refer only to the 'original drawing room'.

- 10.7.2. The proposed development consists of the carrying out of works to Chesterfield House including the demolition of the non-original fabric. The demolition will include all but the historic upper ground floor drawing room and adjoining eastern bay with the corresponding rooms directly underneath them. The modifications and alterations to Chesterfield House will result in a structure that will encompass 3 no. apartments (1 no. 2-bed and 2 no. 3-bed units) with a singular use, residential. I refer the Board to the North Site - Design Statement, Overall Architectural Heritage Impact Assessment And Housing Quality Assessment. The Architectural Heritage Impact Assessment considers that the 'original drawing room', a protected structure, does not have a curtilage but does have a setting.
- 10.7.3. The house has been subject to significant interventions to its original form resulting in the protected room being the only authentic space remaining. The Design Statement and Architectural Heritage Impact Assessment Report submitted with the application presented provides a full account of the interventions. Features of merit that exist within the room are retained in this proposal and the room would be returned to its original function, part of a dwelling. These new interventions recreate the lost symmetry of the former house, while emphasising the strong formal relationship between the bow ended drawing room and the garden it overlooks to the south. Symmetry is carried through into the proposed new north wing to the rear of the historic drawing room, where a new formal entrance is created, with staircases rising and descending to the two different floor levels within. This approach reflects good conservation practice, consistent with development plan policy and advise set out in the 2011 Architectural Heritage Protection Guidelines and section 11.4 Architectural Heritage of the Development Plan.
- 10.7.4. I note also that the Chesterfield House apartments all have wraparound or dual aspect private terraces that vastly exceed the apartment standards at 35-70sqm each. The lower ground floor units also have direct access to the public open space to the south. The lower ground floor units are screened by a continuous hedge and banked area around the perimeter of the property. The upper ground floor apartment is screened

by a parapet that allows views of the surrounding gardens while retaining privacy. Having regard to the previous unsympathetic works to the property, the proposal is considered acceptable and in compliance with Development Plan residential standards.

- 10.7.5. I note it is also proposed to retain and provide for the adaptive re-use of the 'Summer House'. The summer house, built in 1907, has been modified and extended over time. However, it retains most of its original features - timber shingle roof, timber panel and roughcast render walls, stone plinth and timber windows/doors. It is an attractive building of heritage value, and the retention is welcome as part of the redevelopment of the site.

### **Conclusion**

On completion of the development the cumulative impact of the new development (extant and proposed permissions in the vicinity of the site) and refurbishment works on the existing historic building fabric will be significant and largely positive despite the loss of elements of the historic setting. The potential negative impact of the infilling effect of the new development will be mitigated through the retention of mature trees, the proposed landscaping strategy, the design and location of the new residential Blocks.

I consider that any negative impact on the fabric, character and setting of this historic complex is outweighed by the restoration and adaptive reuse of the historic structure/s on site which serve as a remainder of the architectural and cultural heritage of the site and the associated significant public benefit of the provision of ancillary facilities to the residential component, public park serving the wider community and new modern apartments.

## **10.8. Impact on Biodiversity and Ecology**

### *Arboriculture Impact Assessment*

- 10.8.1. The site is subject to an objective "to protect and preserve trees". In the context of the tree stands identified for protection in the Development Plan, they are all to the north of the pond and identified on Drawing No. 103 in the landscape consultants drawing suite. Urban tree planting and preservation of existing trees where possible and appropriate is supported by the Council's 'TREES: A Tree Strategy for Dún Laoghaire-

Rathdown 2011 – 2015'. Two general tree stand areas are identified, one to the north-west of the house and one to the south-east, immediately north of the existing ornamental pond. There are no Tree Protection Orders attached to the site. With respect to trees and hedgerows the Development Plans require new developments to incorporate, as far as practicable, the amenities offered by existing trees. New developments should have regard to objectives to protect and preserve trees and woodland (Policy Objective OSR7: Trees, Woodland and Forestry, GIB25: Hedgerows, Section 12.8.11 Existing Trees and Hedgerows).

- 10.8.2. The application was accompanied by a Tree Survey Report and an Arboriculture Impact Assessment. In summary, 155 of the 280 trees assessed are proposed for removal. This equates to 55% of the overall tree population.
- 10.8.3. The third parties and elected members have raised concerns regarding the extensive tree removal proposed. It is the applicant's contention that the scheme is designed to ensure that all large trees of high amenity value (Cat. A) are retained and incorporated into the scheme. It is set out that the Trees that are to be removed are primarily poor specimens, category U or C trees with limited life expectancy. I refer the Board to Tree Removal Plan (Drawing No. CFH002).
- 10.8.4. Approximately 270m of higher significance broadleaved treeline is to be retained. The Cypress treeline, which is approximately 150m in length, and which is evaluated as of negligible value, is also to be retained. The area of woodland is estimated at 3,300m<sup>2</sup> and is to be mostly removed although some individual trees will remain. It should be noted that this habitat has a high proportion of non-native species, and this limits its value to biodiversity. The loss of habitats on this site will affect a small number of species which are common and widespread, and which are adapted to urban/suburban environments. The impact, therefore, of the loss of these habitats is minor negative.
- 10.8.5. By way of compensation and to enhance the development landscape and integration a comprehensive tree planting schedule is proposed, details are set out in the Landscape Design Statement and drawings accompanying the planning application. The existing tree canopy will be supplemented by the planting of approx. 200 new trees (see Landscape Design Report); encompassing a mix of native species and ornamentals; from large semi-mature specimens to smaller blossoming trees and



regeneration of the perimeter tree belts with long lived Oaks and Beech. Of note, the design approach applied to the northern section of the site reflects low density development together with retaining the land to the south of Chesterfield House as public open space which provides for the retention of a significant number of the existing trees including the two Cedar trees framing the view from the protected 'Drawing Room' and provides an opportunity for significant replacement planting.

- 10.8.6. The Arboriculture Impact Assessment concludes that the Arboricultural impact is Moderate to Low and that this impact can be mitigated primarily with replacement planting, and protective barriers. Whilst the loss of mature trees is regrettable it is a necessary impact of developing the site and I am satisfied that the implementation of additional planting including c.150 new trees encompassing a mix of native species and ornamentals; from large semi-mature specimens to smaller blossoming trees and regeneration of the perimeter tree belts with long lived Oaks and Beech will provide a positive biodiversity gain on this site.

#### *Habitats and Species*

- 10.8.7. The applicant has submitted an Ecological Impact Assessment. A number of field surveys as well as a habitat, flora and fauna, invasive species surveys were undertaken to support the assessment.
- 10.8.8. The subject site comprises a residential home with garden, and semi-landscaped surrounds. The buildings, along with former gardens and non-native trees, can be described as buildings and artificial surfaces – BL3. To the south of the garden there is a patch of recolonising bare ground – ED3 where ruderal plants were growing, such as Clovers *Trifolium* sp. and Willowherbs *Epilobium* sp. with Creeping Bent *Agrostis stolonifera*. It is estimated that 50% of this area is bare stones. It is set out that these areas are of low local value although the specimens of Cedar *Cedrus* sp. and Ash *Fraxinus excelsior* are identified as of local biodiversity value.
- 10.8.9. A band of woodland arcs to the south and east of the house and this can be described as mixed broadleaved/conifer woodland – WD3. It is composed of a variety of predominantly non-native trees including. South of the woodland there is a broad drainage ditch – FW4. The water level in this ditch fluctuates and noted as being dry on one occasion. The report notes that the pond is a man-made feature that was reportedly excavated at the low point of the site in the 18th century to provide a water

feature for the property. It measures some 80m long by 10m wide and is approximately 0.5m deep. The historical 25" maps show the pond draining to the west though there are presently no visible signs of a drain or any connection with a drain at that end of the pond and appears to be landlocked. The southern half of the site is a large dry meadow – GS2, which has not been manged in recent years. This large field is bounded on all sides by a treeline – WL1. The treeline along the north-eastern boundary is dominated by Leyland Cypress and so is of negligible biodiversity value. Other boundaries are characterised by mature lines of Horse Chestnut *Aesculus hippocastanum*, Sycamore and Beech *Fagus sylvatica* with Hawthorn *Crataegus monogyna*, and Elder *Sambucus nigra*. This treeline is of high local value.

- 10.8.10. I refer the Board to Table 4 – *Protected mammals in Ireland and their known status within the O22 10km grid square* of the EclA. A number of surveys were carried out on site. There were no badger tracks, badger latrines, badger setts or other evidence of the presence of badgers within the site in either 2017 or 2021. There was no evidence that Irish Hare is present. Small mammals such as the Irish Stoat, Hedgehog and Pygmy Shrew are considered more or less ubiquitous. No direct evidence of any mammal was recorded other than Fox *Vulpes vulpes* and Rabbit *Oryctolagus cuniculus* which are common in Dublin along with Brown Rat, House Mouse and Field Mouse. These species are not protected. There is no suitable habitat for Otter. The drainage ditch is not suitable due to the lack of connectivity to wider habitat features. The wetland was surveyed on each occasion for Otter activity, and none was found.
- 10.8.11. Bird Surveys were carried out in August 2017 and August 2019, March and June 2020 and June 2021. A winter survey in February 2021 noted Wood Pigeon, Magpie, Mallard *Anas platyrhynchos*, Blue Tit, Blackbird and Wren. Buzzard *Buteo buteo* was noted soaring overhead in February 2021 and August 2017 but was not noted to alight on any of the trees during this time. At no stage was any wintering wading or wetland species, which is listed as a qualifying interest for Natura 2000 sites in Dublin Bay, noted on the development site. All species noted, and listed above, are of low conservation concern/green list (Gilbert et al., 2021). Suitable nesting habitat is available for common garden birds in treelines, woodland and areas of horticultural shrubs. There is no suitable habitat for wintering birds which are qualifying interests of SPAs in Dublin Bay. No species which are qualifying interests of these SPAs were noted during the breeding bird surveys.

- 10.8.12. I refer the Board to the report for the DAU (dated 10.5.22) which notes that of the thirteen species recorded on the site in recent years during the breeding season all are common species and consequently not of high conservation value.
- 10.8.13. However, in line with best practice no site clearance of vegetation during the main bird breeding season from March to August will be carried out as this could lead to the destruction of nests, eggs and nestlings.
- 10.8.14. The EclA notes that there is no suitable pond for Smooth Newt *Lissotriton vulgaris* as it is set out that any water in the existing pond (referred to as 'drainage ditch') is prone to draining away, there are no streams or wetland habitats which could support fish and the common Lizard *Zootoca vivipara* is considered widespread. Concerns were raised by the observers as regard the impact on frogs. The pond provides suitable habitat for breeding Common Frog *Rana temporaria*. No frog spawn was observed during the February 2021 survey. In any case the development seeks expand the 'drainage ditch' into a pond feature. This will result in the temporary loss of existing vegetation – something which will be restored through planting and natural colonisation post-construction. The long-term habitat value of this feature will, therefore, be retained. I am satisfied that the development is not likely to have significant effect on frogs.
- 10.8.15. Increasing urbanisation of Dublin is resulting in the loss of habitat for common species of plants and animals. Whilst I note the concerns raised by the observers regarding the impact on the established ecology of the site. I agree with the applicant that in this case, higher value habitats are to be retained while post-construction landscaping will provide additional resources for wildlife and is therefore an acceptable approach in my opinion.

#### *Invasive Species*

- 10.8.16. A small patch of Japanese Knotweed *Fallopia japonica* was found growing to the south-east of the site in March 2020. It was treated in 2020 and the site was certified free of Japanese Knotweed in 2021 by Knotweed Control Ireland.

#### *Bat Survey*

- 10.8.17. The Bat Assessment Report appended to the Ecological Impact Assessment Report. Surveys were completed for the proposed development site in 2017, 2018, 2019, 2020

and 2021. The full list of survey dates is presented in Table 11 of the Bat Assessment Report submitted. Section 5 of the report sets out the Bat Survey Results.

10.8.18. Four bat species were recorded in total by the array of bat surveys completed for this survey site. - Three of the bat species recorded: common pipistrelle, Leisler's bat and soprano pipistrelle, are the three most common bat species in Ireland. - The fourth bat species, brown long-eared bat, is less common but is considered to be widespread and is generally associated with wooded areas. - No Annex II bat species are known to occur in County Dublin (i.e. lesser horseshoe bat) and were not recorded within the survey area. There were no roosts recorded in the five buildings located within the proposed development site.

10.8.19. The report notes that the proposed development site is principally used as a foraging habitat and commuting route particularly the boundary treelines of deciduous and conifer tree species and the treeline band associated with the ditch/pond. Common pipistrelle was the most frequently recorded bat species, and this species was recorded commuting and foraging within the proposed development site. The proposed development site is considered to be of Low-Medium importance for commuting and foraging common pipistrelles but of Low importance for all other bat species recorded foraging and/or commuting: Leisler's bats, soprano pipistrelles and brown long-eared bats. A low level of bat activity was recorded in the immediate surroundings of the proposed development site. Therefore, the immediate surroundings of the proposed development site are considered to be of Low importance for local bat populations.

10.8.20. Concerns were raised by the observes that the report classifies 50 no. trees within the proposed development site as having a potential bat roost (PBR) value. Phase 1 and Phase 2 inspections did not record any bats roosting in the trees. However, due to the transient nature of roosting bats, these trees are deemed to be PBRs. Twenty trees classified as PBR trees are proposed to be felled. In relation to the 20 PBRs, 15 are Category U trees, this tree category are recommended for felling due to health and safety. The remaining five PBR trees are Category C which are also considered to be of low quality value. The impact is likely to be Permanent Slight-Moderate Negative Effect due to the loss of trees deemed as PBRs and felling in a manner not sensitive to potential roosting bats. A number of mitigation measures are proposed in the report and those that relate to this element are;

- complete further surveys of PBR trees prior to felling. The report notes that if evidence of bat usage of the potential bat roosts is found a derogation licence to interfere with them shall be applied for from the National Parks and Wildlife Service of this Department.
- tree felling procedures will be undertaken sensitively to ensure that no bats are harmed during the process.
- a bat box scheme (12 bat boxes) is proposed to provide alternative roosting sites for local bat populations to replace the loss of potential roosting sites recorded in trees

A lighting plan has been developed with input from the project ecologist and bat consultant. The lighting design is sympathetic to fauna. I am satisfied that owing to the classification of the trees and the implementation of the measures set out above that the impact on potential roosting bats is acceptable. I further note the DAU raised no objection to the works.

10.8.21. The Landscape Masterplan proposes to retain as many trees, as practical, located within the proposed development site. The plans also include the expansion of the pond in the centre of the site. Tree species proposed to be planted include native species such as Alder, Sessile Oak and Birch and trees such as Wildlife Cherry and Crab Apple that will encourage insect prey items for bats. These will be planted to enhance existing treelines, particularly around the pond. The applicants argues that this plan will enhance the existing waterbody, associated tall vegetation and treelines and therefore, will ensure that these linear habitats will continue to be available for foraging and commuting bats post-development, I agree. The report concludes that this planting, expansion of the pond and retention of trees will have a Permanent Slight Positive Effect on local bat populations. Overall, I am satisfied that the development is not likely to have significant effect on bats.

## **Conclusion**

Regarding the Ecological Impact Assessment report, I consider the report substantial and subject the implementation of the *Avoidance, Remedial and Mitigation Measures* outlined in section 6 of the report and section 8 *Bat Mitigation Measures* of the Bat Assessment, I am satisfied that the proposed development will not have a significant detrimental impact on the ecology and biodiversity of the site as outlined above having particular regard to the fact the there are no habitats which are examples of those

listed in Annex II of the Habitats Directive. There are no other plant species which are listed as alien invasive on Schedule 3 of SI No. 477 of 2011.

I am satisfied that the applicant has sought to retain, where practicable, trees and landscape features on the site and integrate these into the overall landscape plan for the site and I am satisfied that the proposed development accords with Policy Objective OSR7: *Trees, Woodland and Forestry* and Policy Objective GIB18: *Protection of Natural*. of the Development Plan.

## **10.9. Traffic, Transportation and Construction**

### *Traffic Impact*

- 10.9.1. A Traffic & Transport Assessment accompanied the application. The report demonstrates that the traffic generated by the proposed development will be relatively low, resulting in flow increases at the two critical junctions averaging 5% of total incident flows over both peak times. The report notes that the two junctions Booterstown Avenue and Mount Merrion Avenue are both busy at peak times, with queuing along Cross Avenue during both morning and evening peak hours. As a result, the additional queuing resulting from the generated flows from the proposed development is predicted to be at low levels, as the additional 2-way flow at each of the critical junctions resulting from the proposed residential units will be in the order to 1 No. vehicle every 2 minutes. The assessment concludes that the proposed development is sustainable in transportation terms. The trip resulting generation volumes are low owing to the non-car-based alternative modes available to residents and visitors at the subject site.
- 10.9.2. A Quality Audit including Road Safety Audit has been carried out in accordance with the Design Manual for Urban Roads and Streets (DMURS). The stated objective of DMURS is to achieve better street design in urban areas. This will encourage more people to choose to walk, cycle or use public transport by making the experience safer and more pleasant. I am satisfied that the general layout is consistent with DMURS, the Transportation Planning Dept. have raised no specific objections save to reinforce DMURS standards by way of condition should the Board be minded to grant permission.
- 10.9.3. Regarding concerns raised about the width of Cross Avenue for two vehicles to pass. I note Cross Avenue currently operates as a two-lane carriageway in addition to the

cycle path and footpaths. I have no concerns in this regard.

#### *Construction Works*

- 10.9.4. A number of concerns have been raised about construction traffic and construction impacts. A Preliminary Construction Management Plan (CMP) has been prepared. With regards to access and egress of the construction vehicles, the report states that construction access to the site will off Cross Avenue. All deliveries to site will be scheduled to ensure their timely arrival and to avoid the need for storing large quantities of materials on site. Deliveries will be scheduled outside of peak traffic hours to avoid disturbance to pedestrian and vehicular traffic in vicinity of the site.
- 10.9.5. A Traffic Management Plan will be prepared by the contractor and agreed with Dún Laoghaire-Rathdown County Council's Transportation Department & An Garda Síochana, to mitigate any impact of construction on the surrounding road network.
- 10.9.6. Similarly, a Construction and Environmental Management Plan (CEMP) accompanied the planning application this sets out mitigation measures for site dust control which will reduce dust and wind born particles. The mitigation measures will be further expanded and detailed by the appointed contractor in the final CEMP and further details to be agreed with DLRCC.
- 10.9.7. I note there are also works on Cross Avenue proposed to facilitate new connections to public infrastructure, these works will be staggered in time to minimise disruption to road users. The works will involve lane closures and temporary traffic lights. Full closure of the road is not required at any time.
- 10.9.8. Some impact of noise is likely to occur as a result of the construction activity. I note the concerns raised by the observes in this regard. Section 8 of the CEMP addresses Construction Noise. Noise will be minimized as far as possible, by limiting the use of compressors and other plant to stated hours and by fitting and use of silencing devices wherever practicable. Machinery will be turned off when not in use. Attention will be paid to the recommendations given in BS 5228. 'Noise Control on construction & Open Sites' & BS 6187 Code of Practice for Demolition. The noise limits to be applied for the duration of the infrastructure works. Nearby noise sensitive location shall not exceed the background level by 10dB(A) or more exceed NG4 limits whichever is lesser. The limits are as measured from the façade of the nearest noise sensitive location/s. Clearly audible and impulsive tones at noise sensitive locations during

evening and night shall be avoided irrespective of the noise level. The CEMP includes a number of measures to be employed to reduce noise. I am satisfied that subject to adherence to same the noise impact will be acceptable.

10.9.9. Construction plant used on site will comply with the relevant Irish regulations in relation to noise and vibration requirements.

10.9.10. Construction work is of a temporary nature and the resulting noise levels and large vehicular movements are usually acceptable, subject to typical management and time control procedures which are common to most urban based development projects and therefore acceptable.

#### *Access*

10.9.11. The proposed development will be accessed via the existing access off Cross Avenue.

It is proposed that the existing access road within the site will be upgraded to a new 5.5m wide road with a 2.0m wide footpath with the Design Manual for Urban Roads and Streets (DMURS). Sightlines have been assessed for a 50kmph design speed on Cross Avenue in accordance with the recommendation of DMURS. I note the Transportation Planning Dept. raised no concerns as regards the proposed access arrangements subject to the extension of the Proposed Works Boundary on Public Road at the entrance by an additional 10m to the west to include the area of tarmac verge which will be required to be replaced by the applicant and their own expense. The Transportation Planning Dept. set out that these works are included in the Council's letter of consent to Cairn Homes regarding the inclusion of lands at Cross Avenue. I am satisfied that this is acceptable and can be addressed by way of condition should the Board be minded to grant planning permission.

10.9.12. I further note the Transportation Planning Dept. raised concerns as regards Blocks 2-6 being restricted for obtaining access for maintenance, deliveries and service vehicles including fire access. The observers also raised similar concerns. The Transportation Planning Dept state that in accordance with 5.2.4 Part B Design and Access Routes and Hardstanding a high reach access is required for within 18m of the access point to water main and that the access route demonstrated in for the minimum size fire appliance. The Transportation Planning Dept. recommend a condition be attached in the event of a grant of planning permission. Therefore, I am satisfied that this can be addressed by way of condition. Regarding fire access, I refer the Board to drawing



no. CCA-BMO-XX-ZZ-DR-C-1055 relating to vehicle tracking fire tender on the podium. It is set out that where there is oversailing of the paths reinforced grass will be provided.

### *Car Parking*

- 10.9.13. Car Parking standards are set out in Table 12.5 *Car Parking Zones and Standards* of the Development Plan. The site is located in Zone 2 where the requirement is 1 space for 1–2-bedroom homes and 2 spaces for 3+ bedroom homes. Some concerns were raised by the observers regarding the lack of car parking and visitor parking proposed whereas the elected members suggested reduced car parking standards should apply.
- 10.9.14. The proposed development will provide for 290 spaces in total comprising 22 surface and 268 basement level spaces broken down as follows: 264 resident spaces: 2 car share spaces, 2 childcare spaces, 56 EV spaces, 12 universal spaces and 8 visitor spaces. Laybys for drop-offs also provided. Spaces will be provided at a rate of 1 per 5 residential car space in the development excluding houses. Total no. provided will be 56no. of which 28no. have been identified on plan. The location of the additional 28 no. will be identified prior to commencement. I note that the creche would generate 16 no. staff and so 3 no. long stay spaces are required.
- 10.9.15. As regards BTR the Apartment Guidelines 2020 SPPR 8iii states that ‘There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.’ Chesterfield is within walking distance of Blackrock with its associated services, facilities and employment offerings. The site benefits from connectivity with public transport, DART (Booterstown Dart Station is c. 950m/ 10-minute walk) and Bus services. Section 12.4.5.2 *Application of Standards* of the Development Plan provides for the relaxation of maximum standards subject to certain criteria including proximity to public transport, Walking and cycling accessibility/permeability etc. This approach is consistent with SPPR 3 of the Compact settlement Guidelines.
- 10.9.16. A Public Transport Capacity report was submitted with the application and concluded that the existing bus and rail services are currently operating with excessive levels of

spare seated capacity, partly due to Covid-19 travel patterns (I note the surveys were undertaken in March 2022). It is set out that the impact of the proposed development on the adjacent public transport network will be easily handled by the current bus network and rail system. The planned NTA Bus Connects project will serve to strengthen the attractiveness and capacity of the upgraded N11 Core Bus Corridor and underpin the enhanced future capacity of this alignment.

10.9.17. Therefore, I am satisfied that the provision of 0.76 car parking spaces per residential unit would be appropriate for the proposed development. This is supported by the Residential Travel Plan accompanying the application.

10.9.18. The reduced level of car parking provision is also consistent with the mobility targets for the greater Dublin area as detailed within the Dublin City Transport Plan and also consistent both with minimising the traffic impact of the proposal and with maximising patronage of the extensive public transport and soft mode options available.

#### *Cycle Parking*

10.9.19. The proposed development includes 540 no. long stay and 90 no. visitor parking spaces for the apartments. The proposed 358 no. apartments incorporate 582 no. bedrooms and together with the visitor requirements (358 no.), the total cycle parking spaces required is 761 no. cycle parking spaces. The cycle provision of 630 is 83% of this requirement. I note that the creche would generate 16 no. staff and so 3 no. long stay spaces are required.

10.9.20. The proposed cycle parking is located at basement and surface level and within close proximity to entrances to the apartment buildings, in areas benefitting from good passive surveillance. Visitor bicycle parking is provided externally at numerous convenient locations at entry points to each block and to the development. 464 residents' bikes are accommodated in the basement split between 4 no. resi bike stores. 30 Sheffield stands (60 bikes @ 2 bikes per stand). 202 stackers (404 bikes @ 2 bikes per stacker). The 14 no. creche spaces are provided for by 7 no. Sheffield stands. Bike shelters in a number of locations on site provide visitor spaces.

10.9.21. I note that the planning authority does not raise a specific concern as regards the quantum of cycle parking but state that the cycle parking should be provided in accordance with the DLR 'Standards for Cycle Parking and associated Cycling Facilities for New Developments' (January 2018). I am satisfied that this can be

addressed by condition should the Board be minded to grant planning permission.

10.9.22. I note the Transportation Planning Dept. consider the 9 no. motorcycle parking spaces acceptable.

### **Conclusion**

On balance, the proposed development is located at a well-served urban location close to a variety of amenities and facilities. Mobility Management has been provided for in the development master planning, and the development will be dominated by sustainable transport modes. The capacities of the existing vehicular, public transport and pedestrian / cycle networks have been assessed and have been found to be more than capable of accommodating the additional movements associated with the proposed development. The Development Plan contains policies and objectives which promote measures that have the potential to reduce the climate impact of transport by encouraging a shift from private motorised transport to walking, cycling and public transport. There are good pedestrian and cycle facilities in the area.

I am satisfied that the components are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the Residential Travel Plan submitted by the applicant. Any disturbance as a result of construction will be temporary in nature.

I have considered all of the written submissions made in relation to Traffic and Transportation. I note the reports of the planning authority and the submission from the TII which raised no objection in principle. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable impacts in terms of Roads and Traffic safety.

### **10.10. Drainage**

10.10.1. A Civil Engineering Infrastructure Report, Site Specific Flood Risk Assessment, A Hydrogeological Assessment and Hydrological Qualitative Risk Assessment accompany the planning application.

*Foul Water Drainage*

10.10.2. There is currently minor wet infrastructure servicing the development-site, which served the existing buildings that are to be decommissioned and removed from site. The development will result in an increase in the wastewater discharged from the site to the public sewer system. The foul outflow from the site will be directed to the municipal treatment plant at Ringsend.

10.10.3. A new separate gravity system will serve the proposed development site with a single connection to the combined sewer on Cross Avenue. The flows from the operational phase of the proposed development are calculated using Irish Water flow rates of 150 l/person per day for residential use and the recommended occupancy rate of 2.7 per unit. The calculated flows are;

- Daily - 169,213 l/day • Average – 1,958 l/sec. • Peak – 8,920 l/sec.

Additionally, it is proposed to pump the drainage via a petrol interceptor from the basement carpark to the foul network.

10.10.4. A Confirmation of Feasibility and Statement of Design Acceptance from Uisce Eireann is included with this application and can be found in the accompanying Infrastructure Report. I refer the Board to the report reviewed from Uisce Eireann dated 1.12.22 which notes feasible without infrastructure upgrade by Irish Water and notes the Confirmation of Feasibility issued by UE on 19th July 2021. The report further notes UE has recently completed a project which provides the necessary upgrade and capacity from the existing head of the ex. 450mm as far as Larchfield Road, to accommodate the proposed development. Therefore, any impact from the increased wastewater flows on the existing drainage network are considered acceptable.

#### *Storm and Surface Water Drainage*

10.10.5. A new 225mm diameter surface water drain will be provided along Cross Avenue to connect to the surface water sewer at Mount Merrion Avenue junction, approximately 600m west of the development site. A Hydrobrake or other flow control device will be fitted downstream of both attenuation systems in order to restrict the flow to 9.40 l/s for the total catchment.

10.10.6. The development consists of a single surface water drainage catchment area draining to the surface water sewer on Mount Merrion Avenue. However, the site is hydrologically divided into two smaller sub catchments: The southern part of the

catchment area will be attenuated in the existing open attenuation pond with an outlet and emergency overflow weir at the low point of the site. The northern part of the catchment will join the downstream network and be attenuated in the existing concrete tank on the development site, which also takes the controlled outflow from the pond, before discharging through the final control into the existing public network at the site entrance.

10.10.7. Outflow from the site will be limited to greenfield runoff rates by utilising vortex flow control devices (or similar approved) and petrol interceptors before discharging to the existing surface water sewer. SuDS devices and attenuation storage tanks will be provided to cater for up to a 1-in-100 year rainfall event and 20% climate change. The appropriate SuDS features included in this proposal include the following:

- Green roofs and podium interception storage.
- The existing seasonal pond will be replaced by a new larger pond providing attenuation storage capacity for the 1 in 100 year flood event (+20% climate change factor). The pond provides treatment storage and has significant amenity and biodiversity benefits.
- Re using the existing concrete tank attenuation structure.
- Lateral inlet kerbs feeding bio-retention tree pit systems for road runoff.
- Permeable paving for surface parking and driveways.
- Vortex flow control devices to control the discharge to public network

10.10.8. As the proposed development will have no additional stormwater run-off, when compared with the current situation, during a stormwater event, the development will, therefore, have no measurable impact on the water quality in any overflow situation at Ringsend WWTP apart from a minor contribution from foul sewage. As explained in Section 3.4 below, the maximum contribution of foul sewage (peak flow of 8.92 l/s) from the proposed development is 0.08% of the peak hydraulic capacity at Ringsend WWTP. The proposed stormwater and foul water networks within the site will be entirely independent systems and rainfall will have no impact on foul flows to the West Pier Pumping station.

*Water*

- 10.10.9. Uisce Eireann in their report set out that the proposed new connection requires an upgrade of the existing cast iron public watermain in Cross Avenue. Accordingly, this proposed development includes the installation of a new water main from the entrance to the proposed development site at Chesterfield to the Booterstown Avenue junction. The anticipated daily water demand for the overall development is calculated as 153,270 litres per day based on Irish Water Guidelines.
- 10.10.10. Uisce Eireann have raised no objection to the development however UE have stated that in order to accommodate the proposed connection at the development, upgrade works are required to increase the capacity of the water network. Approx. 215m of new watermain main required to be laid to replace the existing 4" CI to the 250 mm DI main along Booterstown Avenue. UE does not currently have any plans to carry out the works required to provide the necessary upgrade and capacity. Should the applicant wish to have such upgrade works progressed, Irish Water will require a contribution of a relevant portion of the costs for the required upgrades. I am satisfied this matter can be addressed by way of condition.
- 10.10.11. A Confirmation of Feasibility and Statement of Design Acceptance from Irish Water is included with this application and can be found in the Infrastructure Report

*Hydrology And Hydrogeology*

Existing Pond

- 10.10.12. The Ordnance Survey maps (1829 to 1913) shows that the pond is the only surface water feature at or in the immediate vicinity of the site and the nearest water course is the Priory stream located about 250m to the southeast of the site and is culverted over much of its length. The Priory stream runs southwest to northeast out-falling to Dublin Bay at the south-eastern end of Blackrock Park. The historical 25" maps show the pond draining to the west though there are presently no visible signs of a natural drain or any connection with a drain at that end of the pond and it appears to be landlocked. Surveys were undertaken as part of the application of the pond & its environs to determine if there was a pond outfall drain. The results of this survey were as follows:
- Outfall: An overflow outfall manhole was uncovered at the west end of the pond. This discharges to a 375mm drain which was traced and found to discharge via the existing surface water drains, to the combined sewer on Cross Avenue

Incoming drains: Slit trench excavations at the east end of the pond did not uncover any incoming drains. There is no evidence of the pond receiving water from drains serving adjoining areas.

10.10.13. The Hydrological Qualitative Risk Assessment notes that there is archival evidence that show that there is or at least was a small stream (referenced as the 'Mount Merrion' stream) that appears to be entering the site at the southwestern corner and running north-eastwards past the western end of the pond. It then turns eastwards and runs approximately from west to east parallel to and north of the pond and thereafter further eastwards to join with the Priory stream to the east of the site. It is evident that this stream must have been culverted at some stage in the 19th century and there is presently no visible sign of its location on site. The excavation of a large number of trial pits and boreholes on site have not intersected the culverted stream.

10.10.14. While it is possible that the culverting process resulted in its course being diverted from its original path, it is recommended that further site investigations be carried out at the outset of works beginning on site to locate the culverted stream, to determine its path, and the culverted stream managed, with a view to ensuring that there will be no impact to the stream during or after construction. It is noted that the planned stormwater attenuation and drainage systems for the development are designed to independently collect and manage all surface waters generated on site. These works together will ensure that there will be no inputs or impact to the 'Mount Merrion' stream should it be established to be present at the site. Should the Board be minded to grant planning permission a suitable condition will be required in this regard.

#### Flood Risk

10.10.15. A Site-Specific Flood Risk Assessment Report and Hydrogeological Report and Hydrological Report have been submitted with the planning application. The subject site is in Flood Zone C, as there is no indication of any part of the site being within an area where the probability of flooding from rivers or the sea is greater than 1 in 1000.

10.10.16. The report notes that Chesterfield is not located in an area at risk of flooding and the proposed development will not result in any increased risk of downstream flood impacts. A comprehensive surface water drainage system with an uplift for climate change is proposed. The design includes a comprehensive SuDS train and discharge

is limited to greenfield runoff rates. Having regard to the design, the proposed development is acceptable.

- 10.10.17. All rain falling on the site will be dealt with using the SuDS strategy for the site. The surface water drainage system & SuDS measures will be designed for the 1 in 100-year flood + 20% climate change storm, with a designed maximum outflow less than the greenfield runoff rate ( $Q_{bar}$ ). Therefore, the risk of pluvial flooding within the site is small. In the event of a system blockage, there is considerable rainwater storage available given the extensive coverage of the site with SuDS measures. Any overland flow will be southwards along paved or green areas between buildings towards the attenuation pond which is at the low point of the site.
- 10.10.18. There are no reports of surcharging in the sewers in proximity to the site that would pose a risk of flooding to the site. The foul water from the site connects to the combined sewer on Cross Ave in front of the site. Irish Water have confirmed capacity (refer to the Infrastructure Report accompanying this application). Surface water from the site is heavily attenuated down to the greenfield runoff rate. There are no reported capacity issues from DLRCC and they have not objected to this connection.
- 10.10.19. Regarding the pond, this takes run-off from the site only. There is no evidence of inflows from outside of the site and the proposed development of the site therefore will not block-off drainage from surrounding areas (these areas are all developed suburban housing sites with their own modern drainage systems).
- 10.10.20. The coastline is approximately 1.4km to the east of the site and does not pose a risk due to the distance and due to the elevation difference between the proposed development site – and the sea (>23m).
- 10.10.21. It is noted that there are no watercourses on the site or in the vicinity of the site, and this is therefore not considered as a risk item. The nearest watercourse is the Priory Stream, a culverted watercourse approximately 0.5km southeast of the site on the southern side of Mount Merrion Avenue.
- 10.10.22. In summary, all proposed residential development is located in Flood Zone C (i.e., where the probability of flooding from rivers is less than 0.1% or 1 in 1000 years – probability of fluvial flooding is low risk); therefore, the proposed dwellings are not at risk of inundation from any of the modelled flood events, including the climate change and residual risk scenarios.



## **Conclusion**

I note that no objection to the proposals have been raised by Dun Laoghaire Rathdown County Council. I note the observed raised some concerns as regards the capacity of water and sewerage. The submission by Uisce Eireann also raised no objection to the water supply and foul drainage proposals. I further note that the Hydrological and Hydrogeological Assessment identified no hazards to development on the site. I consider the proposed site services and surface water proposals satisfactory in this regard. I am also satisfied that there is no potential floor risk in the vicinity of the proposed site.

### **10.11. Other Matters**

#### *Archaeology*

- 10.11.1. The DAU referring to the archaeological impact assessment submitted note that in light of the work previously undertaken and the results of the submitted archaeological impact assessment no further archaeological mitigation is required. I agree.

#### *Basement Construction*

- 10.11.2. Some concerns were raised about the impacts/ subsidence as a result of significant underground structures (basement car parking). I note excavations for basements are expected to be to depths of approximately 4.00m and the basement construction should be possible using standard digging methods. Trench support systems, by way of sheet piles, will be in place to maintain trench stability and safe working conditions. The basement is located removed from the site boundaries and subject the construction measure identified. I am satisfied that there will be no impact on residential amenity or risk of subsidence as a result.

#### *School Capacity*

- 10.11.3. The applicants Statement of Consistency sets out that an audit of local services and amenities was undertaken as part of the design process and informed the proposed development. It is set out that the area is well serviced by primary, post-primary, third-level, and further education institutes. There are four primary schools within 1km and two just beyond. There are seven secondary schools and one no. further education. University College Dublin is just over 1km to the northwest of the broader area, and Smurfit Business School is c. 1.5kms to the south.

The delivery of schools is a matter for the Department of Education. Section 12.3.2.5 *School Development* of the Development Plan states that ‘In general, new schools shall be developed in areas where new/additional schools are required as identified by the DoE and/or within existing school/ education sites; in accordance with the “Code of Practice on the Provision of Schools and the Planning System.”. While, I note the applicant has not addressed the capacity of the existing schools and this would have been beneficial, I am satisfied having regards to the proximity to the site to existing schools and the area is adequately served.

I note the CE report states that the proposed childcare facility accommodating 96 no. places is adequately sized to cater for the potential demand generated by the development and in accordance with Policy Objective PHP6 of the CDP whereby childcare facilities are considered to be integral to new residential development. I would agree.

#### *Site boundary Works*

- 10.11.4. Some concerns were raised as regards site boundaries as it is possible that the developer is encroaching on the Clonfadda site to remove and prune trees that do not belong to the site. Any grant of planning permission will relate to works pursuant to the development site as defined. Any works on third party lands will require consent.

#### *Depreciation of Property*

- 10.11.5. Third party concerns were raised that the development would significantly devalue residential property in the vicinity. I am satisfied that the applicant has demonstrated that the development would not result in the devaluation of property in the area. I consider the scheme will provide increased amenity for the area, will result in the enhancement of the character of the wider area and will result in a planning gain for the area.

#### *Inspections*

- 10.11.6. Regarding the concerns raised that An Bord Pleanála ensures that the local Council is funded to carry out Inspections during the building of whatever development goes ahead (reference to Priory Hall disaster), building control is separate and independent of the planning system.

#### *Site Management*

10.11.7. The Waste Section report notes that while the submitted documents are generally acceptable, it is set out that further consideration is required in relation to the design of building services to avoid the creation of serious environmental nuisance in the operation of the proposed works. Conditions pertaining to noise management, environmental monitoring, construction waste public liaison, operational waste management and pest control be attached to any grant of permission. I am satisfied this matter can be addressed through the submission of a final CEMP. I further note a dedicated construction waste public liaison individual will address concerns raised by third parties in this respect.

#### *Access to Information*

10.11.8. A number of submissions note that The only access to information was from [www.chesterfieldplanning2.com](http://www.chesterfieldplanning2.com) as the DLRCC Computer System had a bug that prevented a full review of the file taking place. This is not a matter for An Bord Pleanála. However, I note that this did not appear to prejudice the submissions received on this application.

### **10.12. Chief Executives Report**

10.12.1. As previously referred to in this report the PA are recommending a grant of planning permission subject to conditions. I have addressed issues raised in the Chief Executive Report in my assessment above. I note the conditions recommended; I consider these broadly acceptable.

10.12.2. However, the PA in their recommendation provide for amendments to the scheme by way of condition reducing the number of BTR units and the introduction of BTS. Whilst I consider the development would represent an over-proliferation of BTR in this area as set out in section 10.3 above I do not consider this matter can be addressed by way of condition in this instance owing to the specific application being made for BTR and the specific criteria and standards applied to BTR developments which are not reflected in BTS developments.

### **10.13. Material Contravention**

The applicant's Material Contravention Statement states that the proposed development could be considered to materially contravene the Dun Laoghaire

Rathdown County Development Plan 2022-2028 as it relates to Building Height, Density, BTR Locational Criteria, External Storage.

#### 10.13.1. **Building Height**

Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height.

I refer the Board to section 10.5 of this assessment. I consider that the proposed building is supported by Policy Objective BHS 3 of the CDP including assessment against performance-based criteria set out in table 5.1. Therefore, I am satisfied that the development is not a material contravention of the CDP as it relates to building height.

#### 10.13.2. **Density**

Section 4.3.1 of the Development Plan supports higher densities at a minimum of 50 uph at sites located within circa 1-kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, with a minimum default density of 35 uph for new residential developments. The application site is located 950 metres (circa 10-minute walk) from Booterstown DART Station and 900 metres (circa 10-minute walk) from the nearest bus stop (No. 2069) on the Stillorgan Road N11 QBC.

I refer the Board to section 10.2. of this assessment. I consider that the that the higher density of 115 uph can be accommodated at this location in accordance with PHP18 and RPO 3.3 and 4.3 of the RSES. Therefore, I am satisfied that the development is not a material contravention of the CDP as it relates to density. Furthermore, I consider the development density is consistent with recently published Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and will realise wider planning policy objectives of the National Planning Framework.

The Applicant's decision has been to adopt a conservative approach and accordingly, a justification is provided in the context of section 37(2)(b).

#### 10.13.3. **BTR Locational Criteria**

Policy Objective PHP28 in the Development Plan seeks to facilitate Build to Rent (BTR) accommodation in suitable locations across the County and to avoid a proliferation of this form of development in any one area. In accordance with Section

4.3.2.3 of the Plan, it is a requirement that BTR development shall be located within a 10-minute walking time from high frequency public transport routes.

The entrance to the application site is within the 10 minute walking catchment specified in the DLRCDP 2022-2028. However, the proposed BTR component of the development may be considered to be slightly outside the walk band criteria in Section 4.3.2.3. The fact that a portion of the site lies outside the walk band is minor and is not considered to be materially significant.

The proposed development will contribute to accelerated housing delivery at an appropriately located and 'accessible' urban site in accordance with the Sustainable Urban Housing: Design Standards for New Apartments (2020). The application site generally falls within the definition of a 'Central and/or Accessible Urban Location', namely because the entrance to the site is located 950 metres (circa 10-minute walk) from Booterstown DART Station which provides high-capacity public transport services. I refer the Board to section 10.3 of this assessment. I am satisfied that the development is not a material contravention of the CDP as it relates to BTR Locational Criteria.

#### 10.13.4. External Storage

Section 12.3.5.3 of the Development Plan, states the following: "*Apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements...*"

The proposed development does not provide external storage areas to serve the apartments. The development plan does not include quantitative standards for the external storage areas. Similarly, no quantitative standards have been set out in the apartment guidelines 2020. Par 3.32 of the Apartment Guidelines 2020 states that apartment schemes should provide storage for bulky items outside individual units (i.e., at ground or basement level). Secure, ground floor storage space allocated to individual apartments and located close to the entrance to the apartment block or building is particularly useful and planning authorities should encourage the provision of such space in addition to minimum apartment storage requirements.

Specific Planning Policy Requirement 8 (ii) sets out that flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units and in relation to the provision of all of the communal amenity

space on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The proposed apartments have been designed to provide a high level of residential amenity and provides ample secure cycle parking areas at basement level to facilitate safe and convenient storage of bicycles, ensuring no need to store these bulky items within individual units.

Therefore, I am satisfied that the development is consistent with Specific Planning Policy Requirement 8 of the apartment guidelines as referenced in Section 12.3.6 *Build-to-Rent Accommodation* of the Development Plan and in the absence of specific quantitative standards, I do not consider the lack of external storage space in this instance to be a material contravention of Section 12.3.5.3 of the CDP.

## **11.0 Environmental Impact Assessment**

11.1.1. The applicant submitted an Environmental Impact Assessment Screening Report and a Statement in Accordance with Article 299(1)(b)(ii)(II)(c). I have had regard to same in this screening assessment. The information provided is in accordance with Schedule 7 and 7A of the Planning and Development Regulations 2001. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere

11.1.2. Class 14 of Part 2 to Schedule 5 of the Planning Regulations provides that mandatory EIA is required for:

- 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.

11.1.3. The development would provide for the demolition of the non-original fabric of Chesterfield House (210 sq.m GFA) and the demolition of 3 no. derelict sheds (combined 113 sq.m GFA). It is proposed to construct 366 no. residential units on a site with a stated area of c. 3.4ha within a built-up area. The proposed development does not trigger a requirement for a mandatory EIA because:

- The number of units proposed is well below the threshold of 500 dwellings; and –
- The site area is well below the threshold of 10 hectares

11.1.4. The applicant is their screening refer to the Bord's attention to a permitted development at Renesca, a site (0.3235 hectares) to the immediate north of the Chesterfield site, and that historically would have formed part of the Chesterfield landbank. The permission (ABP Ref. 304913-19) includes for demolition of the existing dwelling to make way for the construction of a 33-no. unit apartment block of up to 5 storeys over basement. Together, the 2 no. developments would deliver 399 no. residential units, and this is 20% below the 500-unit threshold. Combined the sites encompass approx. 3.7 hectares i.e., 63% below the 10-hectare threshold. Having regard to the wide scope and broad purpose of the EIA Directive, it is considered prudent to confirm that the proposed development together with this permitted development would not meet or exceed the relevant thresholds. Further consideration with respect to 'class 14' demolition works is undertaken below.

11.1.5. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential use proposed would be similar to the surrounding land uses in the area, particularly the apartment development currently under construction to the northeast (ABP 311190-21). The proposed development would not increase the risk of flooding and it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. The development would be served by municipal foul wastewater drainage and water supplies. There is a Protected Structure on site – Chesterfield 'Drawing Room', the Conservation Assessment accompanying the application determined no loss of cultural heritage and no significant detrimental impact on the Protected Structures or the adjacent setting. Howley Hayes Cooney assess the impact of the proposed partial demolition, partial rebuilding, restoration and adaption of the

former Chesterfield House to create three independent apartments, on the original drawing room, protected structure as positive. The report states: “Not only is the inadequate, but pastiche fabric also removed, it is replaced by a sympathetic contemporary design, in a formal arrangement that provides three spacious, independent and attractive apartments, one of which contains the restored, original drawing room. The symmetry and formality of the overall composition of the remodelled house, creates a landmark building in which the external expression of the historic room sits comfortably.” I would agree.

- 11.1.6. The site does not support substantive habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application. I refer the Board to section 10.8 above. There are areas of high local biodiversity value within the site, and they are generally associated with the trees and the pond which supports aquatic plants, the pond is to be retained, realigned and enlarged to facilitate surface water attenuation and aquatic biodiversity.
- 11.1.7. There are no Annex II habitats on site. At no stage was any wintering wading or wetland species, which is listed as a qualifying interest for Natura 2000 sites in Dublin Bay noted on the development site. All bird species noted were of low conservation concern/green list (Gilbert et al., 2021). A mammal survey identified a single entrance burrow to the south of the site, within the meadow but close to the treeline. It was established using camera surveying that the burrow was occupied by a fox. There is no suitable habitat for Otter within the site and there was no evidence that Irish Hare is present. The habitat is considered too isolated from other woodland areas to support Deer, Pine Marten or Red Squirrel. No direct evidence of any mammal was recorded (other than the fox). The site is used by foraging and commuting bats. Four species of bat were recorded within the proposed development site: common pipistrelle, soprano pipistrelle, Leisler's bat and brown long-eared bat. No roosts were recorded in the buildings located within the proposed development site; therefore, the proposed demolition and renovation/modification to existing buildings are unlikely to impact on local bat populations. 50 no. trees are identified as Potential Bat Roosts (PBRs), but no bats were recorded roosting in suitable features during the surveys. Development of the site will result in the removal of 20 no. PBRs.
- 11.1.8. The site is located in Flood Zone C and not at risk of flooding. Hydrological pathways exist to Dublin Bay. The Natura Impact Statement concludes that with the



implementation of mitigation measures, it can be concluded beyond any reasonable scientific doubt, that the proposed development either alone or in-combination with other plans or projects, will not adversely affect (either directly or indirectly) the integrity any European site. This conclusion is based on best scientific knowledge.

- 11.1.9. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. Sections 6, 7 and 8 of the EIAR Screening Report addresses the criteria set out in Schedule 7 and 7A. It is my view that sufficient information has been provided within the report and submitted documentation to determine whether the development would or would not be likely to have a significant effect on the environment.
- 11.1.10. Section 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts and all other submissions. I have also considered all information which accompanied the application including inter alia those listed in section 3.2.1 above.
- 11.1.11. With regard to the requirements of Section 299B (1)(b)(ii)(II)(C), the applicant submitted a standalone statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. I would note that the following assessments / reports have been taken into account inter alia:

- An AA Screening and NIS have been submitted with the application, in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
- An Outline Construction & Environmental Management Plan, Operational Waste Management Plan and Resource Waste Management Plan have been submitted that address the requirements under the EU Waste Framework Directive and EC Environmental Noise Directive and Clean Air for Europe Directive and the Directive 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites.
- As per the EIA Screening Report, the subject lands are not proximate to any Seveso/COMAH designated sites and therefore the Seveso III Directive is not directly relevant. In addition, it is noted that the Industrial Emissions Directive is not directly relevant to the proposed housing development, and the proposed development will not directly involve industrial activities under the Directive. As a housing development project, Regulation 1315/2013 Trans-European Networks in Transport, Energy and Telecommunication Regulations is not directly relevant to the project.
- A Site-Specific Flood Risk Assessment has been submitted, which ensures effective management of flood risk, and which has had regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (DoEHLG & OPW, 2009), and was undertaken in response to the EU Floods Directive.
- A Sustainability & Energy Reports, NZEB Compliance and DEAP Assessment) have all been submitted with the application undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings.

11.1.12. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening. I also note SEA has been undertaken as part of the Dun Laoghaire Rathdown Dublin County Development Plan 2022-2028.

I have completed an EIA Screening Assessment as set out in Appendix 1 of this report. Thus, having regard to:

(a) the nature and scale of the proposed development, which is below the thresholds in respect of Class 10 (b) and Class 13 of Schedule 2, Part 5 of the Planning and

Development Regulations, 2001 (as amended);

(b) the location of the development on land zoned Objective A – ‘*To provide residential development and improve residential amenity while protecting the existing residential amenities.*’

(c) the pattern of development on the lands in the surrounding area;

(d) the availability of mains water and wastewater services to serve the development.

(e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended);

(f) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003);

(g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),

11.1.13. I am satisfied that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

## **12.0 Appropriate Assessment**

### **12.1. Introduction**

The applicant has prepared an AA Screening and a Natura Impact Statement (NIS) as part of the application. The AA screening report concluded that in the absence of appropriate mitigation, the proposed development had the potential to significantly affect three European Sites, namely the South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC. Acting on a strictly precautionary basis, an NIS has been prepared in respect of the effects of the project on South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

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

- 12.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 12.2.2. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Assessment. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development, an assessment of the potential impacts arising from the development and an assessment of potential in-combination effects. Hydrological pathways exist to Dublin Bay; at this stage significant effects cannot be ruled out to the following areas: • South Dublin Bay SAC • South Dublin Bay and River Tolka Estuary SPA. It is considered that the potential for construction pollutants to be washed into the bay, via the surface water sewer, means that significant effects to habitats within the SAC, and species within the SPA, cannot be ruled.
- 12.2.3. In the absence of mitigation measures, it is considered that activities and discharges present pressures in terms of disturbance and pollution significant effects on the qualifying interests are likely via the indirect hydrological pathways to the (Foul and surface water) which has connectivity to Dublin Bay is uncertain. In line with Departmental Guidance and having regard to ECJ case law and the 'precautionary principle' Stage 2 Appropriate Assessment is required in respect of South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay.
- 12.2.4. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

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

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

#### *Description of Development*

- 12.3.2. The applicant provides a description of the project in the Appropriate Assessment Screening Report. The development is summarised on pg. 4 & 5 of the report. In summary, the proposed development at Chesterfield House, Cross Avenue comprises a residential development for 8 no. Build to Sell, two and a half-storey, houses to the north of Chesterfield House, and 355 no. Build to Rent apartments across 6 no. blocks, a childcare facility and all associated site development works is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

#### *Description of the Site Characteristics*

- 12.3.3. The applicant provides a description of the receiving environment on page 10 of the Appropriate Assessment Screening Report. The subject site comprises a vacant house with garden, and semi-landscaped surrounds. In the centre of the site there is a broad drainage ditch – FW4. The water levels in this ditch are highly variable can be completely dry. It is nevertheless wet on occasion, and for prolonged periods, as indicated by soft wet mud and the presence of Duckweed Lemna sp. (a small floating plant normally associated with ponds or ditches). The site is not located within or directly adjacent to any Natura 2000 site (SAC or SPA). This part of south Dublin is a built-up residential zone and is predominantly composed of artificial surfaces although parks and gardens do provide some semi-natural habitat. Mapping from the Environmental Protection Agency (EPA) indicates that the lands are not within the catchment of any significant water course. The Priors stream flows c.250m to the southeast of the site and is culverted over much of its length. The stream discharges to Dublin Bay at the south-eastern end of Blackrock Park.

### *Prescribed Bodies Consulted*

- 12.3.4. The submitted AA Screening report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information.

### **12.4. Zone of Influence**

- 12.4.1. The proposed development is not located within or immediately adjacent to any European Site. Figure 4. of the AA screening sets out the approximate 15km radius around the proposed development site and Natura 2000 sites.
- 12.4.2. Following an analysis of the conservation objectives of the South Dublin Bay SAC, the North Dublin Bay SAC, the North Bull Island SPA, the River Tolka Estuary SPA and the Poulaphouca Reservoir SPA it was concluded, taking a precautionary approach, that significant effects on European sites from the proposed development, either considered on its own or in combination with other plans or projects, cannot be ruled out. This arises from the potential for pollutants (specifically hydrocarbons, concrete and sediment) during the construction phase to reach Dublin Bay via the Priory Stream and/or the Mount Merrion Stream. There is no confirmed direct natural hydrological connection from the site to Dublin Bay. The presence of the Merrion Stream potentially provides a direct natural hydrological connection to Dublin Bay via Priory Stream. There is an indirect pathway through the storm water and foul sewers en-route to the storm water outfall and Ringsend WWTP respectively. As a consequence, there are pathways to four Natura 2000 sites.
- 12.4.3. This area defined as the zone of influence extends to the maximum distance at which potential likely significant effects could occur including via hydrological connections i.e. foul water and surface water pathways. In addition, beyond this limit, noise and visual disturbance to birds will not occur. Seabirds and marine mammals which are Qualifying Interests of European sites beyond the zone of influence, are highly mobile and have the potential to occur within the zone of influence while feeding or on migration. Bottlenose Dolphin, for example, is a Qualifying Interest of five European sites on the west coast of Ireland, however this species is found all around the coasts of Ireland.
- 12.4.4. The AA Screening Report concludes that hydrological pathways exist to Dublin Bay; at this stage significant effects cannot be ruled out to the following areas:

- South Dublin Bay SAC
- South Dublin Bay and River Tolka Estuary SPA.

It is considered that the potential for construction pollutants to be washed into the bay, via the surface water sewer, means that significant effects to habitats within the SAC, and species within the SPA, cannot be ruled out at this stage.

Due to the enormous dilution effect in Dublin Bay no effects from construction pollutants are likely to arise to Natura 2000 sites on the north of the Bay, or beyond the Bay. No significant effects are likely to arise to any other Natura 2000 sites either alone or in combination with other plans and projects.

12.4.5. Consistent with the applicant's report, I agree that there are potential hydrological links with European Sites within the inner Dublin Bay area (i.e. South Dublin Bay SAC and South Dublin Bay) as a result of surface water and foul water pathways.

12.4.6. In applying the 'source-pathway-receptor' model, in respect of potential indirect effects, I would accept that all sites outside of Dublin Bay can be screened out for further assessment at the preliminary stage based on a combination of factors including the minimal effluent discharge from the proposed development works (to be treated at Ringsend WWTP and discussed further below), the intervening minimum distances and the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites and the dilution effect with surface water runoff and following this, sewer. Furthermore, in relation to the potential connection to sites in the outer Dublin Bay area, I am satisfied that the distance to the boundary of the North Dublin Bay SAC and the North Bull Island SPA are not within the downstream receiving environment of the proposed development given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances (c. 6km) and the significant marine buffer and dilution factor that exists between the sites. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

12.4.7. Furthermore, Poulaphouca Reservoir SPA is located upland of the site and at a distance of c.23km from the site much of which is separated by significant urban development. On this basis, I do not consider that the proposed development has the potential for disturbance of qualifying species, by reason of noise, vibration, dust,

human activity, or otherwise. Furthermore, based on the site habitat and the site surveys completed, I would agree that the site is not a significant ex-situ foraging or roosting site, and no significant effects are likely for the species of qualifying interest from any of the SPAs.

12.4.8. Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the table below. I am satisfied that no other European Sites fall within the possible zone of influence.

12.4.9. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, are outlined in the table below.

<b>European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)</b>	<b>Location Relative to the Proposed Site</b>
<b>SAC:</b>	
<p><b>South Dublin Bay SAC (site code: 000210).</b></p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] The NPWS has identified a site specific conservation objective to maintain the favourable conservation condition of the Annex I Habitat Mudflats and sandflats not covered by seawater at low tide [1140], as defined by a list of attributes and targets</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.</p>	c.700m
<b>SPA:</b>	
<p><b>South Dublin Bay &amp; River Tolka SPA (site code: 004024).</b></p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>)</p>	c.700m



<p>[A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Artic Tern (<i>Sterna paradisea</i>) [A194] Wetland and Waterbirds [A999]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SPA has been selected.</p>	
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## 12.5. Potential effects on European Sites

- 12.5.1. As previously discussed, the application site does not fall within the boundary of any Natura 2000 site, therefore there are no Natura 2000 sites at risk of direct habitat loss impacts as a result of the proposed development. There is an indirect link from the subject site to the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary through stormwater sewers and through foul sewers via the Ringsend Wastewater Treatment Plant
- 12.5.2. Water: The development will be supplied with fresh water via a mains supply. The foul effluent associated with the proposed apartments will drain, via an existing combined sewer to the Ringsend Wastewater Treatment Plant for treatment and ultimately discharge to Dublin Bay. This Wastewater Treatment Plant is currently being upgraded, having received planning permission in 2019 to increase treatment capacity. Irish Water have reported that this system can facilitate the proposed development. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend Wastewater Treatment Plant, and thus its impact on the overall discharge would be negligible.
- 12.5.3. Habitat disturbance/Ex-situ impacts: The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites. However, as the site is formed of existing grassland and in light of its proximity to the South Dublin Bay and River Tolka Estuary SPA, it may represent suitable in-land feeding area for light-bellied brent goose and other wintering bird species which may forage inland. The site

surveys included breeding and wintering bird surveys. The habitats on the development site were found not suitable for regularly occurring populations of wetland, wading or wintering birds. These habitats are typically coastal or intertidal mudflats and other wetlands while some species, notably the Light-bellied Brent Goose has been noted to feed on amenity grasslands in the Dublin area as is a concern raised by the observers. There are no such amenity grasslands on the subject site. Breeding bird surveys recorded no species which is a qualifying interest of SPAs in Dublin Bay. I am satisfied that the submitted data is sufficient for the purposes of my assessment of potential impacts. I note reference made by observers about sightings of Brent Geese in the area, however as no sightings of Brent geese or signs of use by geese were recorded within the site's redline boundary area, no significant impacts on these species are expected however given the distance from the proposed site and also the intervening buildings and developed lands. The survey results submitted indicate that the proposed development site is not important for wintering birds and the qualifying interests of any SPA listed.

In addition, the submitted report states that any noise from construction or operational works would be localised to the vicinity of the site. There are intervening buildings, main roads, a train line and Blackrock Park between the proposed development site and this SPA and therefore any noise from the works would be deemed to have a negligible impact on the qualifying interests due to the distance and existing background noise levels in the vicinity of the SPA.

12.5.4. Habitat Loss: The site is approximately 700m from the boundary of the South Dublin Bay and River Tolka estuary SPA/SAC as the crow flies and the intervening land is occupied by residential development and transport links, including the DART line. Because of the distance separating the development site and any Natura 2000 site there is no pathway for loss or disturbance of habitats listed above or other semi-natural habitats that may act as ecological corridors for important species associated with the qualifying interests of the Natura 2000 sites.

12.5.5. Construction Phase: During the construction phase, standard pollution control measures would be adopted. These measures are standard practices for redevelopment sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface

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

12.5.6. I note the submission from IFI and concerns raised as regards hydrological pathways present between the Priory Stream and the proposed development, via the surface water sewer which leads to the Priory Stream, which also discharges to Dublin Bay. IFI note that the Priory Stream belongs to the Brewery\_Stream\_010 WFD surface waterbody which has a 'Moderate' Status (EPA, 2022) and its WFD risk score is 'Under Review'. I draw the Boards attention to the fact that the Priory Stream is not of high fisheries value as it is extensively culverted along many sections of its length. Furthermore, there is no connection from the drainage ditch on the site to this water course. Sediment is not a pollutant in coastal and intertidal habitats in the way it is in rivers (where sediment can foul spawning beds for Salmon and other fish). Inter-tidal habitats rely on vast quantities of sediment for their functioning, and so in the very unlikely event that sediment arising from the construction phase reached the Bay it would not negatively affect the inter-tidal habitat.

12.5.7. Operational Phase: Pollution from surface run-off during operation: Following a hydrogeological assessment and investigation the surface water pond on the site was found not to be connected to any culverts leading to the Priory stream or any other streams off site. There is consequently no direct pathway from the site via surface water flows to Dublin Bay. There is an indirect pathway to Dublin Bay via any overflow from the pond to the municipal surface water sewer via the surface water drainage network to be built as part of this proposal. When operation the new surface water attenuation measures are designed so that there will be no net change to the quantity of surface water leaving the site. Surface water will percolate to ground or discharge to a municipal surface water sewer (and so on to Dublin Bay). SUDS are standard measures which are included in all development projects. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS). It is standard practice that SuDS are included in all projects, and they are not specifically included to reduce or avoid any effect on a designated Natura 2000

site. In any case should the presence of the Merrion Stream be verified during construction works, regardless of how this is dealt with, there will be no hydrological connection during the operation phase as the stream will remain culverted.

12.5.8. A flood risk assessment has concluded that the site is not at risk of flooding.

12.5.9. I am satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA) can be excluded having regard to the following:

- During the construction stage, surface water will be attenuated/part treated within the site and the nature of any discharges is temporary/of a relatively low volume relative to the recovering surface water and marine environments.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.
- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is underway and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- I would also note that the EPA classified water quality in Dublin Bay as 'unpolluted' in 2018.
- There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as

it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

12.5.10. As previously discussed, the Appropriate Assessment Screening carried out by the applicant concluded that given the nature of the construction works, in the absence of mitigation measures, there is considered to be potential for petrochemicals, hazardous material or silt laden material to enter these marine environments. Adopting a precautionary approach, a Natura Impact Assessment was deemed to be required in respect of the potential for construction pollutants to be washed into the bay, via the surface water sewer. Therefore, a Natura Impact Statement (Stage 2 Appropriate Assessment) was prepared and submitted.

12.5.11. I have examined the 'mitigation measures' outlined on pages 17-19 of the NIS, to prevent impacts on Natura 2000 sites. They generally comprise of construction best practice/control measures detailed in the Construction Management Plan submitted with this application and as acknowledged in the NIS. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site and that those outlined constitute the standard established approach to construction works on greenfield/brownfield lands. The adoption of such measures would be standard practice for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site.

*In combination or Cumulative Effects*

12.5.12. The applicant's AA Screening Report has considered cumulative / in-combination impacts, including other permitted developments in the vicinity of the site, relevant plans and policies, and the potential cumulative impact on Ringsend WWTP. It concludes that no projects or plans would act in-combination with the proposed development to cause any likely significant effects on any European sites.

12.5.13. I acknowledge that there would be a cumulative effect with other developments as a result of increased wastewater loading on the Ringsend WWTP (Pg. 49, 50 and 51 of the AA). However, based on the upgrade of the Ringsend Wastewater Treatment Plant; the incorporation of similar design parameters and good practice in other developments; and together with the previously discussed absence of evidence of

adverse impacts on Dublin Bay as a result of nutrient over-enrichment; I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of wastewater loading.

12.5.14. There would also be a cumulative effect in relation to surface water discharge. However, all other developments will be required to incorporate appropriate construction management measures and to incorporate GDSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of surface water.

12.5.15. The Dun Laoghaire-Rathdown Development Plan 2022–2028 and the Development Plans for other areas in the Greater Dublin Area include a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European sites.

#### **AA Screening Conclusion**

12.5.16. I have considered the material submitted by the applicant, including the Appropriate Assessment Screening & Natura Impact Statement and environmental reports. Having considered this, and having regard to the nature/scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, it is my opinion that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024), or any Natura 2000 Site. The risk of watercourse contamination is extremely low and in the event that a significant pollution incident occurs in the context of surface water locally, it is reasonable to assume that this would be imperceptible to Natura 2000 sites given the applicable separation distances and the dilution that would have occurred as the surface water moved downstream. Therefore, contrary to the view of the applicant, I do not consider a Stage 2 Appropriate Assessment necessary in this instance and am satisfied that Stage 1 Appropriate Assessment is appropriate for all sites.

- 12.5.17. I note that the application included a NIS. In deciding to prepare and submit this, the applicant states that the precautionary principle was being applied. It is my opinion that the adoption of the precautionary approach is over cautious and unwarranted in this instance. Upon review, the mitigation measures outlined to prevent impacts on Natura 2000 sites generally comprise of construction best practice/control measures detailed in the Construction and Environmental Management Plan, Operational Waste Management Plan and Resource Waste Management Plan accompanying the application. The adoption of such measures would be standard practice for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. I am satisfied that no mitigation measures pertaining specifically to potential impact to a Natura 2000 site have been proposed.
- 12.5.18. If the Board does not adopt the screening recommendation set out above, I deem sufficient information to have been included in the submitted NIS to allow a Stage 2 Appropriate Assessment to be completed.

### **13.0 Conclusion and Recommendation**

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied, and that permission be refused to be granted for the proposed development, for the reasons and considerations set out in the draft Order below.

### **14.0 Recommended Order**

**Application:** for permission under Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 7<sup>th</sup> day of April 2022 by McCutcheon Halley Planning Consultants, on behalf of Cairn Homes Properties Limited.

**Proposed Development:** The application comprises:

The development will consist of:

- i. the demolition of the non-original fabric of Chesterfield House (210 sq.m GFA) and change of use of the remaining structure from office and caretaker residence to residential use;

- ii. change of use of the existing 'Summer House' (59.3 sq.m GFA) to caretaker's maintenance and storage, including alterations and internal modifications;
- iii. the demolition of 3 no. derelict sheds (combined 113 sq.m GFA) and decommissioned water tank;
- iv. the construction of 366 no. residential units, with a cumulative gross floor area of 34,109 sq.m comprising;
  - a) 355 no. Build to Rent apartments across 6 no. blocks in the southern portion of the site ranging in height from 3-storeys to 8-storeys over basement incorporating 26 no. studio, 138 no. 1-bed, 163 no. 2-bed and 28 no. 3-bed units, all with private amenity space;
  - b) 3 no. Build to Sell apartments (1 no. 2-bed and 2 no. 3-bed units) contained within a re-constructed Chesterfield House, all with private amenity space: and,
  - c) 8 no. Build to Sell, two and a half-storey, 4-bedroom semi-detached houses to the north of Chesterfield House, all with private amenity space.
- v. the construction of a childcare facility at ground floor level in Block No. 2 with a gross floor area of 532 sq.m, with associated outdoor play area of 201 sq.m and 2 no. designated staff car-parking spaces located at basement level;
- vi. the provision of a build to rent residents' services and amenities hub (combined 906 sq.m) located at basement level to accommodate a range of uses including a gym, aerobics room, residents' lounge, café, co-working area, chef's kitchen, 2 no. meeting rooms, and multipurpose/media/presentation space;
- vii. the provision of build to rent residential support facilities (with a combined gross floor area of 429.3 sq.m) comprising concierge, parcel room, bin stores, cleaner's rooms, and caretaker's maintenance and storage (former 'Summer House');
- viii. the provision of 5,260 sq.m of public open space and 11,260 sq.m of communal open space;
- ix. the construction of 1 no. bin and bike store with a combined gross floor area of 27.8 sq.m to serve Chesterfield House and 4 no. bike stores with a cumulative gross floor area of 119 sq.m in the southern part of the site;



- x. the provision of 644 no. bicycle parking spaces (540 no. long stay, 90 no. visitor and 14 no. for use by the childcare facility);
- xi. the provision of a total of 290 no. car parking spaces comprising 22 no. surface level and 268 no. basement level car parking spaces. Car parking on site will include 56 no. EV spaces, 12 no. universal access spaces, 8 no. visitor spaces, 2 no. car-sharing spaces and 2 no. car parking spaces designated for the childcare facility.
- xii. 11 no. motor-cycle parking spaces at basement level;
- xiii. 2 no. pedestrian access paths and access gates for potential future access (subject to agreement) at the boundary with Clonfadda to the south and Cherbury to the west;
- xiv. access will be via the existing access on Cross Avenue and improvement works are proposed to this entrance including the construction of an ornate patterned steel panel (30m x 3.7m) incorporating signage (2.6m x 0.3m) to the east of the existing entrance and signage (2.2m x 1.5m) on the existing wall to the west; works to the public footpath in the form of a raised table pedestrian crossing, waste layby area, drop-off and set down spaces, improvements to and realignment of the existing internal vehicular access road from the Cross Avenue entrance to provide for a road of 5.5m in width and 2m wide footpath;
- xv. realignment and enlargement of the existing on-site ornamental pond to facilitate surface water attenuation;
- xvi. installation of infrastructure along Cross Avenue to facilitate connections to the municipal potable water supply at the junction of Cross Avenue and Booterstown Avenue and the surface water sewer at the junction of Cross Avenue and Mount Merrion Avenue;
- xvii. the construction of 2 no. single-storey ESB sub-stations with a combined gross floor area of 51 sq.m;
- xviii. all ancillary site development works including plant, waste storage areas, landscaping, green roofs, boundary treatment, outdoor lighting, and solar PV panels.

- xix. The proposed development also consists of the carrying out of works to Chesterfield House which contains a protected structure, 'Original Drawing Room' (RPS no. 171). Importantly, the protected structure will be retained within the proposed re-constructed Chesterfield House

at Chesterfield, Cross Avenue, Blackrock, Co. Dublin

**Decision:** Refuse permission for the above proposed development based on the reasons and considerations set out below.

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

## **15.0 Reasons and Considerations**

Having regard to the relative proximity of ABP 311190-21 (at 244 no. BTR units) ca. 220m to the northeast of the site which is currently under construction and also accessing directly onto Cross Avenue, the cumulative impacts of a further 358 BTR units as proposed in one area would result in the over proliferation of BTR at this location and would be contrary to section 4.3.2.3 and Policy Objective PHP27 as it relates to 'sustainable residential communities' and Policy Objective PHP28 as it relates to 'over proliferation' of Build-to-Rent development of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Irené McCormack

Senior Planning Inspector

30<sup>th</sup> April 2024

## EIA Screening – Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference (313252-22)		
Development Summary	Demolition of the non-original fabric of Chesterfield House and sheds, construction of 366 no. residential units (8 no. houses, 358 no. apartments), creche and all associated site works	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?		An Appropriate Assessment Screening Report and Natura Impact Statement were submitted with the application. An Ecological Impact Assessment was also submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA		SEA and AA were undertaken in respect of the Dun Laoghaire Rathdown County Development Plan 2022-2028

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts ( ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment?  Yes/ No/ Uncertain
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	There is a clear consistency in the nature and scale of existing and emerging development in the surrounding area comprising suburban housing and apartment development under construction -ABP 311190-21. The proposed development would provide for a new residential development at an urban location that is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.	<b>No</b>
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed residential development has been designed to logically address the alterations in topography on site, resulting in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality.	<b>No</b>
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	<b>No</b>

<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the CEMP. The CEMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p><b>No</b></p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Phase Environmental Management Plan, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.</p>	<p><b>No</b></p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Operation of the standard measures listed in the Construction Phase Environmental Management Plan, will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.</p>	<p><b>No</b></p>

<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Construction Phase Environmental Management Plan and Operational Waste Management Plan and Resource Waste Management Plan.	<b>No</b>
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Phase Environmental Management Plan and Operational Waste Management Plan and Resource Waste Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.	<b>No</b>
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding.	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.	<b>No</b>
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	<b>No</b>	<b>No</b>

## 2. Location of proposed development

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>a) European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>b) NHA/ pNHA</li> <li>c) Designated Nature Reserve</li> <li>d) Designated refuge for flora or fauna</li> <li>e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ul>	<p>The nearest European sites are listed in Section 12 of this report and other designated sites are referenced in the application AA Screening Report &amp; NIS. Protected habitats or habitats suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream</p>	<p><b>No</b></p>
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>The proposed development would not result in significant impacts to protected, important or sensitive species</p>	<p><b>No</b></p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is not within an area of archaeological potential. Archaeological monitoring was previously carried out on site. No significant findings were recorded. I note the DAU has no concerns in this regard.</p> <p>‘Drawing Room’ of Chesterfield House is a Protected Structure. Having regard to the design and layout of the development including the retention, restoration and continued use of the ‘Drawing Room’, the impact of the development is not likely to be significant</p>	<p><b>No</b></p>
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features are in this outer-urban location, with the site separated from agricultural areas by intervening urban lands and road infrastructure</p>	<p><b>No</b></p>

<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.	<b>No</b>
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	<b>No</b>	<b>No</b>
<b>2.7</b> Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by a local road network. There are sustainable transport options available for future residents. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	<b>No</b>
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The site is in close proximity to a number of schools. However, there is no negative impact anticipated as a result of the proposal.	<b>No</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	<b>No</b>	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?	<b>No</b>	<b>No</b>
<b>C. CONCLUSION</b>		
No real likelihood of significant effects on the environment.	Agreed <input type="checkbox"/>	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	



## D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;
- the location of the proposed residential units on lands zoned within the Dun Laoghaire Rathdown County Development Plan 2022-2028 as Objective A – *'To provide residential development and improve residential amenity while protecting the existing residential amenities.'*;
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction & Environmental Management Plan, Operational Waste Management Plan and Resource Waste Management Plan, the Conservation Assessment and the Engineering Services Report. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

Approved (DP/ADP) \_\_\_\_\_

Date \_\_\_\_\_