



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313266-22**

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#### **Strategic Housing Development**

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

#### **Location**

Former Blakes and Esmonde Motors  
Site, Lower Kilmacud Road, Stillorgan  
(N11).

#### **Planning Authority**

Dun Laoghaire Rathdown County  
Council

#### **Applicant**

Cairn Homes Properties Limited

#### **Prescribed Bodies**

- (1) Uisce Eireann
- (2) Inland Fisheries Ireland

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

- (1) Stillorgan Park Avenue Residents  
Group

(2) Conor Hogan and Others

(3) Donall O'Keefe

(4) John Conway

**Date of Site Inspection**

15<sup>th</sup> January 2025

**Inspector**

Colin McBride

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site, which has a stated area of approximately 1.41 hectares is located at the junction of the N11 and the Lower Kilmacud Road, Stillorgan, Co. Dublin. The site is bounded by the Lower Kilmacud Road to the north, The Hill to the southwest and the N11 to the east. The site is adjacent to the Stillorgan Village Shopping Centre, which is located to the northwest of the site. To the north and on the opposite side of Lower Kilmacud Road is the site of the former Stillorgan Leisureplex site, which has been redeveloped with a recently constructed apartment development of up to eight-storeys. To the north also and on the opposite side of Lower Kilmacud road (east of the Leisureplex site) is a nine-storey building under construction, which will be occupied by a library at ground floor and apartments above. There are single and two-storey residential properties to the immediate southeast along The Hill as it rises to meet the N11. There are one and two storey terraced cottages to the southwest on the opposite side of The Hill, which are all in commercial use. There are single and two-storey houses along Glanalbyn Road and Linden Lea Park to the south of the site. Site levels fall across the site from the junction of The Hill with Lower Kilmacud Road to the N11. The site has been cleared and hoarding is evident along its boundaries. The site was formerly occupied by a car sales premises and a two-storey structure housing restaurant use. The Stillorgan QBC runs along the N11 to the north of the site. The site includes part of the curtilage to the side of the existing two-storey dwelling immediately to the southeast of the site (Dun Fanoir).

### 3.0 Proposed Strategic Housing Development

- 3.1. This is an application for a permission consisting of the construction of a mixed use scheme or 377 no. Built-to-Rent BTR apartments, Community Sports Hall (c. 939sqm) along with 5 no., restaurants/cafes (c. 841sqm), crèche (c. 215sqm), office (c.195sqm) and ancillary residents support facilities/services (c. 1,016sqm) laid out in 6 no. blocks ranging in height form 3-9 storeys (over basement) comprising 21 no. studio apartments, 189 no. 1 bedroom apartments, 159 no. 2 bedroom apartments and 8 no. 3 bedroom apartments (selected no. with balconies) and public realm upgrades.
- 3.2. Vehicular access is from The Hill with 2 no. vehicular entrances to underground parking, one to Building 01 and one to Building 05. Provision of 5 no. ESB substations including relocation of existing substation and all ancillary site works necessary to facilitate the proposed development.
- 3.3. Key Development Statistics are outlined below:

	<b>Proposed Development</b>
<b>Site Area</b>	1.41 ha gross (net 1.17 ha)
<b>No. of Units</b>	377
<b>Density</b>	267 up gross 322 up net
<b>Height</b>	Building 1: Part 3, 4, 6 and 7 over basement. Building 2: Part 3, 5, 7 and 8 over basement. Building 3: Part 7 and 9 over part basement. Building 4: 7 storeys over basement. Building 5: Part 6 and 7 over basement. Building 6: Part 5 and 6.
<b>Plot Ratio</b>	1:2.7 gross and 1:3.2 net
<b>Dual Aspect</b>	53%
<b>Open Space</b>	5,288sqm 1,177sqm of public open space 4,111sqm of communal open space including 1,024sqm of balcony compensatory space
<b>Communal Amenity Space (internal)</b>	509sqm

<b>Car Parking</b>	119 spaces in basements and 1 no. surface set down space 10% EV (12) 4% Accessible Space
<b>Bicycle Parking</b>	866
<b>Motorcycle Parking</b>	6
<b>Car Sharing Parking</b>	5

3.4. Unit mix is as follows:

Apartment Type	Studio	One	Two	Three	Total
No.	21	189	152	8	377
%	5.6%	50.1%	42.2%	2.1%	

3.5. The application included the following:

- An Bord Pleanála Opinion Response
- Community Audit
- Material Contravention Statement
- Statement of Consistency
- Design Statement
- Technical Report
- Part V Proposal
- Statement of Response
- Car Parking Rationale
- Construction Management Plan
- DMURS Statement of Consistency
- Engineering Assessment Report

- Food Risk Assessment
- Traffic and Transportation Report
- Travel Plan
- Landscape Report
- Aboricultural Report
- Photomontages
- Townscape & Visual Assessment
- Wind Microclimate Assessment
- 299B Statement
- EIA Screening
- Air Quality & Climate Impact Assessment
- Construction Demolition Waste Management Plan
- Hydrological & Hydrogeological Qualitative Risk Assessment
- Noise Assessment
- Operational Waste Management Plan
- Natura Impact Statement
- Ecological Impact Statement
- Daylight, Sunlight and Overshadowing Study
- Telecommunications Report
- Archaeology Assessment
- Residential Energy Statement
- Commercial Sustainability & Energy Statement
- Utilities Report
- Site Lighting Report
- Road Safety Audit, Access Audit, Cycle Audit
- Public Transport Capacity Report

## 4.0 Planning History

ABP-300520-17 (SHD): Permission granted for a mixed-use development comprising of 179 no. student accommodation units (576 no. bed spaces), 103 no. residential apartment units, retail unit, community sports hall and all associated site works. Permission granted 16/03/2018, which means this permission has expired.

On sites in the vicinity:

ABP-305176-19 (SHD): Permission granted for demolition of existing structures, construction of mixed-use development to include 232 no. Build to Rent apartments and associated site works on Stillorgan Leisureplex site located to the north of the application site. Development is 2-8 storeys and has been completed. Granted 03/12/19.

PC/H/01/20: Part VIII development granted for demolition of 16 no. maisonettes, 2 no. semi-detached house and removal of prefabricated library building and construction of a new public library and a housing development consisting of 88 no. apartments (4-9 storeys) at St. Laurances Park to the north of the application site. This development is currently under construction. Granted December 2020.

ABP-312447-22: Permission granted for 102 Built-to-Rent apartments on lands adjacent The Grange, Brewery Road, Stillorgan. Development has been constructed. Granted on the 02/06/22.

ABP-209860: Permission granted for 287 Built-to-Rent apartments at lands adjacent to 'The Grange', Brewery Road, Stillorgan. Development has been constructed. Granted on the 18/12/19.

## 5.0 Section 5 Pre-Application Consultation - ABP-307439-20

- 5.1. A Section 5 pre-application consultation took place on the 07<sup>th</sup> of October 2020 in respect in respect of the construction provision of a mixed-use development,



comprising of 464 no. residential units, 4 no. cafe/ retail/ restaurant units, crèche, community hall, resident amenity facilities and associated site works. The topics discussed at the meeting were...

- Development strategy for the site including height, density, massing and plot ratio.
- Residential amenity.
- Transportation matters.
- Drainage matters.
- Any other matters

5.2. Copies of the record of the meeting and the Inspector's Report are on this file.

5.3. In the Notice of Pre-Application Consultation Opinion dated 16<sup>th</sup> October 2020 (ABP-307439-20) An Bord Pleanála stated that it was of the opinion that the documents submitted with the request to enter into consultations require further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. An Board Pleanala considered that the following issues need to be addressed.

#### Height and Design Strategy

1. Further consideration and/or justification of the documents as they relate to the height and design strategy for the site, having regard to the policies and objectives of the recently adopted Stillorgan LAP 2018; the permitted heights on this site and other sites in the general vicinity; together with the capacity of the site to accommodate a development of the height, scale and massing proposed. The applicant is referred to the recently adopted Stillorgan LAP 2018, (adopted subsequent to the granting of permission for ABP-300520-17, which permitted a maximum height of 9 storeys), in particular the 'Site Development Framework' prepared for the site (Table 4.5.3.2), contained therein. This Site Development Framework sets a benchmark height of five-storeys across the site, with a landmark building of up to nine storeys at the corner of the N11/Lower Kilmacud

Road junction. This landmark height reflects the height of the previously permitted development on the site (ABP-300520-17). In this regard, the prospective applicant should satisfy themselves that the design strategy for the site as it relates to height provides the optimal architectural solution for this site, in line with both local and national policy, and should submit a rationale/justification for the heights/setbacks proposed. CGIs, visualisations and cross sections, as necessary, should be submitted which clearly show the relationship between the proposed development and existing/permitted development in the immediate and wider area and which illustrates the topography of the area. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

Furthermore, the applicant is advised that an appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant development plan and that specifically addresses any matter that maybe considered to materially contravene the said plan, if applicable, should be submitted.

2. If the applicant continues with the height and design strategy as proposed in the documentation submitted, further consideration and/or justification of the documents as they relate to the proposed strategy for the development of the site in respect of the design and layout of the proposal, particularly with regards to the location of the landmark element of the proposal on the site is required. The applicant should also ensure that the transition between the landmark element and the lower elements of the proposal are designed to ensure that excessive massing or bulk in the overall design does not detract from the proposed landmark element. Particular regard should also be had to creating suitable visual relief in the treatment of elevations. An architectural report and urban design statement should be submitted with the application. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

## Proposed Uses

Further consideration and/or justification of the documents as they relate to the quantum of mixed-use district centre facilities being proposed, having regard to the 'District Centre' zoning of the lands, as set out in the Dun Laoghaire Rathdown County Development Plan 2016, the objective of which is 'to protect, provide for and or improve mixed use district centre facilities'. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. A report addressing materials and finishes.
2. Additional transportation details having regard to the requirements of the Transportation Planning Division report.
3. Additional drainage details for the site having regards to requirements of the Drainage Division.
4. Site layout showing areas to be taken in charge if any.
5. A report addressing residential amenity (existing residents adjoining the site, future occupants of the proposed scheme, and future occupants of the proposed permitted but not constructed in the vicinity) with regard to overlooking, overbearing and noise impacts. Cross-sections to be submitted showing relationship of proposal to existing development adjoining the site. Landscape and architectural drawings that detail wind mitigation measures.
6. Housing Quality Assessment.

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

- Uisce Eireann
- Department of Culture, Heritage and the Gaeltacht
- Transport Infrastructure Ireland
- National Transport Authority

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

5.5.1. A Statement of Response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The Items that required further consideration are summarised below: -

##### Height and Design Strategy

Proposal has been reduced from 464 units to 377 with provision of a 9-storey landmark building in lieu of a 15-storey structure. An Architectural Statement of Response has been submitted (OMP) outlining the design strategy.

In response to the Stillorgan LAP provisions, referral is made to a permitted development on the Leisureplex site and Library site with an established six-storey shoulder height with such consider more appropriate in this regard. The design is informed by the provisions of the LAP and the provision of a 9- storey landmark building with structures rising towards a 9-storey landmark structure.

Justification for building heights is set out in the Material Contravention Statement with regard to compliance with the Building Height Guidelines, the location of the site, the provisions of the National Planning Framework, Regional Policy Objectives and the provisions of the Apartment Guidelines.

The layout has been revised in response to the opinion and the design and layout strategy is set out in the Design Statement and Architectural Statement of Response.

Proposed uses: The proposed uses are consistent with the District Centre zoning with an appropriate level of the development dedicated to commercial uses (5.7%). Such are considered appropriate in context of the level of commercial uses permitted and existing in the surrounding area.

Materials and Finishes: The Architectural Statement of Response sets out the materials strategy for the development.

Boundary Treatment and Pedestrian Permeability: A drawing submitted showing boundary treatment and there are 3 pedestrian routes identified through the development.

Traffic and Transportation: A Traffic and Transport Assessment has been submitted which includes details of public transport facilities, car parking provision, cycle parking provisions and a road network assessment.

Drainage and Flood Risk: An Engineering Assessment Report has been submitted detailing diversions, surface water drainage details and proposed SDUDs measures.

Taking in Charge: A site layout showing areas to be taken in charge has been submitted.

Residential Amenity: A Sunlight Daylight Report has been submitted and provides a cumulative assessment with the permitted development in the vicinity (Leisureplex and Library sites). A Noise Assessment Report has been submitted and deals with construction and operational noise impacts. The Architectural Statement Response

provides details regarding the relationship between the proposed development and adjoining development in terms of overbearing/overlooking impacts.

Housing Quality Assessment: A Housing Quality Assessment has been submitted with reference to the Apartment Guidelines (2020).

Conclusions:

It is concluded that the Statement of Response Report and Architectural Statement of Response address the specific information requested by A Board Pleanála in the pre-application opinion.

## **6.0 Relevant Planning Policy**

### **6.1 National Policy**

#### ***National Planning Framework***

##### **6.1.1 Chapter 4 of the National Planning Framework (NPF) is entitled ‘Making Stronger Urban Places’ and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.**

A number of key policy objectives are noted as follows:

- National Policy Objective 4 seeks to ‘Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being’.
- National Planning Objective 11 provides that ‘In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth’.
- National Planning Objective 13 provides that “In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of

tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

6.1.2 Chapter 6 of the NPF is entitled ‘People, Homes and Communities’ and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

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

## 6.2 Regional Policy

### ***Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR).***

6.2.1 The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten-year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

## 6.3 Guidelines

### ***Section 28 Ministerial Guidelines***

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023.
- Urban Development and Building Heights Guidelines, 2018.
- Sustainable Residential Development and Compact Settlement Guidelines 2024.

6.4 Other

***Climate Action Plan.***

***National Biodiversity Action Plan.***

6.5 Local Policy

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

6.5.1 The application was lodged on 08<sup>th</sup> April 2022 and at the time the 2016-2022 County development Plan was in force. The 2022-2028 County Development had been adopted on the 10<sup>th</sup> March 2022 and came into force on the 21<sup>st</sup> of April 2022.

6.5.2 The site zoned is 'Objective DC' with a stated objective 'to protect, provide for an or improve mixed-use district centre facilities'. The proposal is for residential (BTR), with commercial uses (café/restaurant, office and a crèche) provided also. All of these uses are permitted in principle under land use zoning policy as outlined under Table 13.1.10 in relation to this zoning objective.

**The main policies/objectives are set out below. This is not an exhaustive list and should not be read as such. The Board should consider inter alia the following:**



### 6.5.3 Specific Local Objectives (SLO's)

Map 2 Booterstown/Blackrock/Stillorgan

SLO 15: To accord with the policies of the adopted Stillorgan Local Area Plan.

### 6.5.4 Policy Objective RET6 - District Centres

It is a Policy Objective of the Council to maintain the District Centres at Blackrock, Stillorgan, Nutgrove and Cornelscourt, and to promote the mixed-use sustainable town centre which is currently under construction in Cherrywood in accordance with the approved SDZ Planning Scheme.

Stillorgan District Centre

- To promote the future redevelopment of Stillorgan as a multi-faceted, mixed-use sustainable District Centre having regard to the broad objectives of the adopted Stillorgan Local Area Plan.
- To protect, and, where possible, enhance the residential amenity of established residential areas on the fringes of the District Centre.
- Net retail sales area<sup>1</sup> in Stillorgan District Centre zoned lands to be capped at 20,000 sq. m.

### 6.5.5 Policy Objective PHP18: 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.

### 6.5.6 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.

- On all developments with a units per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.
- On all developments with height proposals greater than 4 storeys the applicant should provide a height compliance report indicating how the proposal conforms to the relevant Building Height Performance Based Criteria "At District/Neighbourhood/Street level" as set out in Table 5.1 in Appendix 5.
- On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious buffer must exist from the rear garden boundary lines of existing private dwellings.
- Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights.

**6.5.7 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.

**6.5.8 Policy Objective PHP28: Build- Rent and Shared Accommodation/ Co-living Developments** It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 (and any amendment

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

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

#### Appendix 5

##### Building Heights Strategy

Policy Objective BHS 1 – Increased Height.

Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).

Policy Objective BHS 3 – Building Height in Residual Suburban Areas.

The site is within the boundary of the Stillorgan Local Area Plan 2018. The Development Plan specifies under the Council's Specific Local Objectives (SLOs) for Map 2 (Booterstown/Blackrock/Stillorgan) where the site is located an objective "to accord with the policies of the adopted Stillorgan Local Area Plan" (SLO15).

#### Appendix 5

Policy Objective BHS 2 - Building height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form party of County Plan).

It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in the County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dun Laoghaire Urban Framework Plan 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 areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the criteria set out in table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height of the area.

Table 15.1 Criteria for assessing proposals for increased height.

At County Level

At District/Neighbourhood/Street Level

At site/building scale

County Specific Criteria

#### 6.5.10 Car parking Table 12.5 Parking Zone 2

Apartments: 1 per one and two bed units, 2 per three bed + (standard).

Restaurant/Café <100sqm: None (maximum).

Restaurant/Café >100sqm: 1 per 50sqm (maximum).

Childcare: 1 per 60 children (maximum).

#### Section 12.4.5.2 Application of Standards

In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces specified in Table 12.5 or may consider that no parking spaces are required. Small infill residential schemes

(up to 0.25 hectares) or brownfield/refurbishment residential schemes in zones 1 and 2 along with some locations in zone 3 (in neighbourhood or district centres) may be likely to fulfil these criteria. In all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out below:

(i) Assessment Criteria for deviation from Car Parking Standards (set out in Table 12.5)

- Proximity to public transport services and level of service and interchange available.
- Walking and cycling accessibility/permeability and any improvement to same.
- The need to safeguard investment in sustainable transport and encourage a modal shift.
- Availability of car sharing and bike / e-bike sharing facilities.
- Existing availability of parking and its potential for dual use.
- Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).
- The range of services available within the area.
- Impact on traffic safety and the amenities of the area.
- Capacity of the surrounding road network.
- Urban design, regeneration and civic benefits including street vibrancy.

#### Bicycle Parking Table 12.8

Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (Table 4.1).

#### 6.5.11 Public Open Space Requirements for Residential Developments

Table 12.8 Residential Development in the existing built-up area 15% of the site area. It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or

smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended. The contribution in lieu to be paid for any shortfall in the quantum of public open space to be provided will be used for the provision of improved community and civic infrastructure and/or parks and open spaces, in the vicinity of the proposed development for use of the intended occupiers of same. On overall sites of less than 0.25 ha, the Council may also consider levying a contribution in lieu of public open space.

6.5.12 Section 12.3.4.2 Habitable Rooms: All habitable rooms within new residential units shall have access to appropriate levels of natural /daylight and ventilation. Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance, in this regard.

### ***Stillorgan Local Area Plan 2018***

6.5.13 This plan was adopted on the 10<sup>th</sup> September 2018 to last a period of 6 years, The plan was extended on the 13<sup>th</sup> November 2023 for a further period of 5 years and is still currently in force.

The application site is identified as a Key Development Site (Blakes/Esmonde Motors).

#### **Section 4.5.3.2 Blakes/Esmonde Motors-Site Development Framework**

##### **Building Height/Plot Ratio**

- Benchmark height of five-storeys across the site, with a landmark building of up to nine-storeys at the corner of the N11/Lower Kilmacud Road junction.
- The transition between the landmark height (9 storeys) and the benchmark height (5 storeys) must be designed to ensure that excessive massing or bulk

in the overall design does not detract from the 'landmark' nature of the nine-storey element.

- Indicative Plot Ratio of 1:2.5.

## **6.6 Applicants Statement of Consistency**

6.6.1 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 Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Dun Laoghaire Rathdown County Development Plan 2022-2028, which had been adopted at time the application was lodged (08/04/22) but had not come into effect until the 21/04/22. This has been examined and noted.

## **6.7 Material Contravention Statement**

6.7.1 The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022, of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and the Stillorgan Local Area Plan 2018. The statement is summarised below: -

### **6.7.2 Building Height**

The 2022 Development Plan identifies areas (Local Area Plans) where locations for increased height are sensitive to established residential amenity. Policy BHS2 applies, building height in areas covered by an approved Local Area Plan. There are instances where an argument can be made for increased height in order to apply SPPR3 of the Building Heights Guidelines. The site is within a District Centre subject to Stillorgan LAP, which identifies a maximum benchmark height of 5-storeys with a landmark building of 9-storeys.

SLO-15 of the 2022 development is to accord with the policies of the adopted Stillorgan Local Area Plan.

#### Stillorgan Local Area Plan

Development Framework for the site (Section 4.5.3.2).

Benchmark five-storey across the site with a landmark building of nine-storeys at corner of N11/Lower Kilmacud Road. Transition between landmark structure and benchmark height must be designed not to detract from landmark structure. Indicative Plot Ratio 1:2.5.

Proposal has a landmark structure of 9-storeys however height ranges across the site of 6-8-storeys are above 5-storey benchmark. Proposed plot ratio is 1:2.7(gross) and 1:3.2 (net) and higher than indicative plot ratio of 1:2.5.

Justification for material contravention is based on the policy and guidelines under the National Planning framework, Eastern and Midland Regional Economic Spatial Strategy, The Sustainable Residential Development in Urban Areas Guidelines and the Urban Development and Building Height Guidelines. It is considered that the building height is proposed is justified in the context of SPPR3 of the Building Height Guidelines.

#### 6.7.3 Development Plan Design Standards (2022-2028)

The proposal is a BTR development and the provisions of SPPR 8 of the Apartment Guidelines apply. If the Board, consider the proposal comprises a material contravention of a number of design standards, a justification is provided. The issue with potential for material contravention are.



Section 12.3.5.2 Separation between blocks (22m). Proposal generally complies with this standard with reduced separation in some places and the Development Plan policy noting reduced separation is acceptable in certain instances. Overlooking between apartments addressed through design.

Section 12.3.3: That a certain percentage of 3-bed units shall apply to BTR development.

Section 12.3.5.3: External Storage: Proposal is in compliance with Development Plan and Apartment Guidelines standards for internal storage. There is no provision for external storage of apartments. The proposal is a BTR development and SPPR8(1) and (11) apply.

Section 12.3.6 BTR+ accommodation, car parking to apply with section 12.4.5.

Open Space 15% provision/private open space provision.

#### 6.7.4 Development Plan Design Standards (2016-2022):

The proposal has requirements for 502 car parking spaces (389 residential based on minimum standards and 113 commercial based on maximum standards) based on Table 8.2.3. of the 2016 Development Plan with the proposal providing for 119 spaces.

6.7.5 Conclusion: The applicants state that the Board can consider granting permission for the proposed development under the provisions of Section 10(3) of the 2016 Act in contravention of the Dun Laoghaire Rathdown County Development Plan 2016 and the Stillorgan Local Area Plan 2018 for the reasons outlined and pursuant Section 37(2)(b)(i) and (iii) of the 2000 Planning Act (as amended).

## 7.0 Third Party Submissions

### 7.1 Third party submissions have been received from the following...

Stillorgan Park Avenue Residents' Group

Conor Hogan and Others

John Conway

Donall O'Keeffe

Chares Treston

### 7.2 The issues raised in the submissions can be summarised as follows...

- Adverse impact on existing dwellings in particular two-storey dwellings along the northwestern side of Stillorgan Park Avenue due to an overbearing visual impact, overshadowing/loss of light and overlooking/loss of privacy.
- Proposed scale of development is not in keeping with the existing pattern of development in the area. Excessive density, bulk and scale at this location.
- Additional noise impact at this location due to location of the car park above the level of the existing road and such being vented to the roadside.
- Inadequate levels of car parking proposed on site for the number likely residents, inadequate levels of parking for the retail/café and community hall. Lack of existing public car parks and existing parking issues in the area will be exacerbated.
- Lack of public open space and provision of play space.
- Impact of the proposal on wintering Brent Geese overflying the site feeding
- Material contravention of Stillorgan Local Area Plan in terms of building height with a benchmark height of five-storeys leading to a nine-storey landmark/gateway at the N11 junction. Provision of height in excess of this benchmark is not justified under the provision of Section 37(2)(b) of the Planning and Development Act. Proposal would be contrary Policy PHP20 of the current Development Plan.
- of a vacant site for much need residential accommodation in this area.

- Justification of the proposal by reference to the Building Heights and Apartment guidelines are ultra vires and not authorised by section 28(1C) of the Planning Act 2000. The proposal materially contravenes the Local Area Plan and County Development Plan, and such cannot be justified under Section 37(2).
- The application is deficient in terms of EIAR and does not permit an assessment of potential environmental impacts. The proposal should have been subject to a full EIA. The Board lack the ecological and scientific expertise necessary to assess the proposal.
- Proposal is inadequate in regard to Appropriate Assessment with insufficient information and surveys provided to assess the proposal and comply with the Habitats Directive. The AA screening submitted is inadequate and relies on mitigation measures for the purposes of carrying out AA.
- One of the observations (Charles Treston) is supportive of the scheme welcoming development of what is vacant site.

## 8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 14<sup>th</sup> day of June 2022. The report includes a summary of the pre-planning history, site location and description, relevant planning history, third-party submissions and prescribed bodies, the proposed development, internal reports and policy context. The CE Report refers to Development Plan policy under the County Development Plan 2022-2028, which was in force at the time the report was authored.

The views of the elected members presented at the Dundrum Area Committee Meeting held on 05<sup>th</sup> May 2022 are summarised as follows: Provision of community facility/sports hall welcome, development of derelict site positive, concerns regarding cumulative effect on parking in Stillorgan area, footpath should continue across vehicular access, provision of car sharing facilities welcome, concern regarding provision of public realm improvement works timeline dependent on the development,

condition should be applied allow amendment of design of public realm works on Lower Kilmacud Road.

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

#### *Principle of Development*

The scarcity of Objective DC land is noted with it imperative mix of uses is achieved. All uses proposed are permitted in principle within the zoning. Development Plan requires that BTR development be within 10-minute walking time of high frequency public transport routes with 2 no BTR developments having been permitted within a 10-minute walk zone of the subject site (232 and 287 units). The mix proposed is considered appropriate however the Planning Authority would rather a mix of BTR and non BTR residential. Quantum of non-residential proposed is appropriate.

#### *Residential Density*

Net density of 322 uph and is deemed to be consistent with the Development Plan on a quantitative level however is considerably higher than that of adjoining residential development with the requirements of Policy PHP18 requiring consideration of impact on residential amenity of the existing properties.

#### *Housing Mix*

Reference is made to SPPR 8 of the Apartment Guidelines (2020) which imposes no mix requirements in BTR developments. The CE Report raises no issue with the proposed mix.

#### *Standard of Accommodation*

The standard of accommodation is considered acceptable in the context of size, ratio of dual aspect units, floor to ceiling heights, lifts and str cores, internal storage, external storage, sunlight and daylight standards, private open space and ancillary residential facilities provided.

### *Public and Communal Open Space and Trees*

Communal open space provision is sufficient in terms of quantitative standards with concern regarding public access and permeability through the site with unrestricted access through central route recommended. The development fails to meet the Development Plan requirement of 15% public open space however it is considered that due to provision of in excess of required levels of communal open space and the provision of community sports hall that the proposal is acceptable and a contribution in lieu is not required. The proposal for additional tree planting alongside retention of trees along the N11 boundary is noted and welcomed.

### *Design and Finishes*

The design and finishes are considered acceptable apart from the southwestern elevation of building no 6 at the junction of the Hill and Lower Kilmacud Road. An alternative finish is required given the prominence of this structure due to height and location at a junction.

### *Commercial*

It is considered that the commercial development proposed in conjunction with the commercial development in the development on the Leisureplex site will contribute to the objectives of the Stillorgan LAP and Development Plan policy in relation to Stillorgan as a District Centre.

### *Community Sports Hall*

The provision of such is welcomed with some concerns regarding lack of clarity in relation to ongoing management and usage rights for such. A condition requiring an operational plan should be attached in the event of a grant of permission.

### *Childcare*

Childcare provision is considered acceptable and provides an active frontage on The Hill.

#### *Impacts on Residential and Visual Amenity*

The Site Development Framework for the site is noted (section 4.5.3.2) and Policy Objective PHP18 on residential density. Concern regarding overbearing impact of dwelling immediately south (Dun Fanoir) due to proximity and scale of Building no. 2. In the event of a grant of permission consideration should be given to omission of 3 no. units at levels 4, 5 and 6 along with alteration to fenestration to the southeastern elevation of building no. 2. Concerns regarding daylight impact on windows serving the dwelling immediately south of the site (Dun Fanoir) with omission of units suggested in building no. 2. It is also recommended that one of floor of Building no. 1 be omitted in the interest of adjoining amenity. It is considered the proposed development will not give rise to any noise impacts in the context of adjoining amenities. Level of separation is generally 22m between blocks with some instances below this standard. In these cases, the angled arrangement of blocks and daylight and sunlight standards achieved in conjunction with compensatory measures mean the proposal is acceptable in term of residential amenity.

#### *Access, Car and Bicycle Parking*

The CE report refers to the Council Transportation section report. Concerns expressed regrading permeability through the site and restricted nature of such. Failure to demonstrate integration with Bus Connects proposals along the N11. A footpath is required along the eastern boundary of the site and will conflict with the design of building no. s 2 and 3. The provisions of the Stillorgan Village Area Movement Framework Plan (SVAMFP) must be taken into account. Concern also expressed regarding interface between the central through route and cycle path along the N11. Lack of clarity on delivery of the SVAMFP. Inadequate widths provided to the north of building no. s 4 and 5, and inadequate setback north of building no. 3 and 4 to facilitate SVAMPF. Conditions are recommended to address these issues.

In terms of car parking a reduced level of parking based on Development Plan standards is acceptable however the level of car parking proposed is inadequate with it recommended that 0.5 spaces per unit is provided with a suggested provision of an additional level to both basement car parks. Provision of accessible parking at surface level required and should be conditioned.

Cycle parking provision is in line with Development Plan requirements however concerns are expressed that spaces are poorly accessible in terms of basement location and the area dedicated to such, there is lack of cargo bike and e-bike facilities. Given the car parking ratio proposed higher quality cycle parking facilities are required and should be addressed by way of condition.

### *Building Height*

Development Plan and Local Area Plan policy on Building height is noted. The CE report includes an assessment of the proposal under the Table 5.1 criteria. It is considered that the proposal does not meet all the criteria under Table 5.1 and that the proposed building height is not acceptable in principle based on development plan building height policies. In particular concerns regarding impact on the existing dwelling to the southeast were noted and integration with Bus Connects proposals and the SVAMPF. In the event of grant of permission conditions are recommended requiring omission of 3 no. units in building no. 2 and omission of level no. 5 of building no. 1 (to make it 6-storeys).

### *Surface Water Drainage and Flood Risk*

The CE report refers to the Drainage Section Report which recommends a number of conditions in relation to surface water and stormwater drainage. The conclusions of the Flood Risk Assessment are accepted.

### *Construction Management and Construction and Operational Waste Management*

The CE report refers to the recommendations of Environmental Health Office and waste section with a number of conditions recommended including a construction

management plan, operational waste management plan and construction waste management plan to be agreed.

#### *Building Life Cycle Report*

The Building Life Cycle Report submitted is noted.

#### *Archaeology*

The findings of the Archaeological Assessment are noted with no predicted impact and no mitigation required.

#### *Ecological Impact*

The Ecological Impact Assessment submitted is noted with no predicted impact. A condition requiring implementation of mitigation measures recommended is required.

#### *Development Contributions*

The proposal is subject to a section 48 Development Contribution.

#### *Taking in Charge*

The taking in charge drawings submitted are noted with elements of the public realm proposed to be taken in charge. A condition is recommended that a taking in charge drawing be submitted and agreed with the Planning Authority. In the event of a grant of permission conditions should be included requiring that the pedestrian link between The Hill and N11 and the public plaza remain accessible to the public 24 hours and works carried out be completed to a taking in charge standard.

#### *Appropriate Assessment/Environmental Impact Assessment*

The submission of a Natura Impact Statement including a Screening Report and an EIA Screening Report are noted.



### *Conclusion*

The proposal is not acceptable in its current form; however, a grant of permission is recommended subject to conditions addressing the issues raised in the CE report.

### *Recommendation*

It is recommended that permission be granted subject to a list of conditions provided

Conditions of note:

Condition 2: The public plaza and main thoroughfare between the Hill and the N11 (including entirety of 'Area C' shall provide unrestricted access at all times).

Condition 6: Amendments including omission of 3 no. units in building no. 2, revised fenestration to southeastern elevation and omission of level no. 5 in building no. 1.

Condition 11: Submission of an operational management plan for the community sports hall.

Condition 26: Amended plan identifying alignment, levels and on-site location of boundary roadside footpath and cycle track kerb lines along Lower Kilmacud Kilmacud Road, the Hill and the N11 to ensure deliverability of the SVAMFP/Bus Connects.

Condition 32: Provision of increased car parking quantum of 0.5 spaces per unit which may be achieved through addition of an extra basement.

Condition 33: Amendment including improved space and access for cycle parking, segregated access, 75 covered Sheffield stand visitor spaces, 50% of spaces being accessible Sheffield standards instead of stacked spaces, provision for cargo bikes and e-bikes.

Condition 35: Provision of two public disabled access parking spaces on the eastern side of The Hill.

Condition 5: 24-hour staff presence required.

Condition 14: Provision of Sheffield stands and covered long stay bicycle parking

## 8.3 Dun Laoghaire Rathdown County Council Reports

### Internal Departmental Reports

Drainage Planning: No objection subject to conditions.

Environmental Health Officer: No objection subject to conditions.

Waste Section Planning: No objection subject to conditions.

Transportation Planning: Amendments required including additional parking, provision of improved cycle parking and consideration of Bus Connects and the SVAMPF.

Parks: No objection subject to conditions including retaining public access through the site between The Hill and N11.

## 9.0 Prescribed Bodies

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

- Uisce Eireann.
- Transport Infrastructure Ireland.
- National Transport Authority.
- Failte Ireland (in relation to the provision of tourist accommodation at the development).
- Department of Culture, Heritage and the Gaeltacht (National Park's and Wildlife Service).

9.2. The following submission were received:

## **Inland Fisheries Ireland**

Essential that receiving foul and storm water infrastructure has adequate capacity with Ringsend WWTP operating beyond capacity. All discharges to comply with European Regulations. Construction to be in line with a Construction and Environmental Management Plan. Submission refers to IFI guidelines.

## **Uisce Eireann**

Water connection feasible subject to upgrade in public realm (140m network extension), wastewater feasible with no infrastructure upgrades. Recommended that permission be granted subject to conditions.

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

- Zoning/Principle of Development
- Density
- Housing Tenure/Concentration of Build to Rent
- Design Strategy-Design & Layout, Public Realm/Open Spaces
- Building Height and Visual Impact
- Residential Amenities
- Adjoining Amenities
- Traffic and Transportation
- Drainage Infrastructure /Flooding

- Biodiversity/Ecological Impact
- Other Issues
- Material Contravention

## 10.2 Zoning/ Principle of Development

10.2.1 As noted earlier the current Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The application was lodged on the 04<sup>th</sup> April 2022. The 2016-2022 Development Plan was in force with the current development Plan having been adopted on the 10<sup>th</sup> of March and having come into force on the 21<sup>st</sup> of April 2022. The proposed development is on lands zoned 'Objective DC' with a stated objective 'to protect, provide for an or improve mixed-use district centre facilities' under the Development Plan 2022-2028 (site was zoned Neighbourhood centre, NC under the previous 2016-2022 Development Plan). The proposal is for residential (BTR), with commercial uses (café/restaurant, office, a crèche and a community sports hall) provided also. All of these uses including specifically 'Residential-Built-To-Rent' are permitted in principle under the land use zoning policy as outlined under Table 13.1.10 in relation to this zoning objective under the current 2022-2028 County Development Plan. The Stillorgan District Centre includes the application site and lands in the vicinity including the former Leisureplex site to north, the Stillorgan Shopping centre to the northwest and existing commercial properties to the west of the site fronting both The Hill and Lower Kilmacud Road (R285).

10.2.2 The provision of residential development on lands zoned 'Objective DC' 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 Policy Objective RET6-District Centre is to maintain District Centres including Stillorgan and there are specific objectives for Stillorgan including promoting the future redevelopment of Stillorgan as a multi-faceted, mixed-use sustainable District Centre having regard to the broad objectives of the adopted Stillorgan Local Area Plan, protection, and, where possible, enhance the residential amenity of established residential areas on the fringes of the District Centre and net retail sales area in Stillorgan District Centre zoned lands to be capped at 20,000 sq. m. the proposal is mainly residential with some commercial ground floor uses amounting to 5.7% of the overall development. Taken in conjunction with the established level of commercial uses within the overall District centre lands, I would be satisfied that the proposal does accord with both Development Plan policy on zoning and District Centres.

10.2.4 CE report Comment: The CE report considers that the type of uses proposed are compliant with the Objective DC zoning of the current 2022-2028 County Development Plan and that the nature of the use and level of commercial development is acceptable having regard to the overall level of existing commercial development within Stillorgan District Centre, both existing and permitted development.

10.2.5 Conclusion: The proposed uses are compliant with the land use zoning objective. I am also satisfied that the proposal provides for sufficient mixed use on site and the quantum of commercial development is acceptable in the context of the levels of established commercial use within the overall Stilliorgan District Centre, which includes the Stillorgan Shopping centre to the northwest, existing commercial use along The Hill, Lower Kilmacud Road and a degree of commercial development permitted within the scheme at the former Leisureplex and Library sites to the north.

### 10.3 Density

10.3.1 The site has a gross site area of 1.41 hectares and a net development area of 1.17 hectares. The proposed development will have a gross density of 267 uph and a net

density of 322 uph. The third-party observations raise concerns about an excessive density of development being proposed. Policy Objective PHP 18: *Residential Density* of the Development Plan 2022-2028 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 12.3.3.2 under “the objective is to optimise the density of development in response to type of site, location and accessibility to public transport”. The core strategy of the current Development Plan states that development in Dun Laoghaire Rathdown 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 current Development Plan sets out that this increases efficiencies such as travel distances between home, work, education and services are reduced and hence active modal share, which is zero carbon can be increased. Section 12.3.3.2 of the CDP states that density should be determined with reference to the Sustainable Residential Development in Urban Areas Guidelines and the Apartment Guidelines.

10.3.2 The site context is that it is within Stillorgan District Centre, which is made up of land zoned Objective DC centre around the junction of the Lower Kilmacud Road (R285), Old Dublin Road and The Hill. This includes the Stillorgan Shopping Centre, the former Leisureplex site. In term of accessibility the site is located adjacent the N11 and its associated Quality Bus Corridor, which is Spine/Branch Route under the Bus Connects proposal (E1, E2). There are also bus services along Lower Kilmacud Road and Old Dublin Road.

10.3.3 The relevant current guidelines are the Sustainable Residential Development and Compact Settlement Guidelines (2024) which have superseded the Sustainable Residential Development in Urban Areas Guidelines (2009) and have come into force after the current Development Plan (2022-2028). In the context of the

Sustainable Residential Development and Compact Settlements Guidelines (have superseded the Sustainable Residential in Urban Areas Guidelines) the site is in a City – Urban Neighbourhood in which densities in the range of 50dph to 250dph (net) shall generally be applied. (net). The guidelines under Section 3.3.6 (Excepotions) outlines that there is a presumption in these Guidelines against very high densities that exceed 300 dph (net) on a piecemeal basis. Densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan. In the context of the Apartment Guidelines (2020) the site is a 'Central and /or Accessible Urban Location with such areas identified as 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. The site is located within a District Centre and 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 (N11 QBC).

10.3.4 In this case the net density level is well above the 50-250 dph range recommended under the Sustainable Residential Development and Compact Settlements Guidelines (2024) for such locations. The County Development 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. The site is also within the Stillorgan Local Area Plan 2018, which is still in force, and such has a Site Development Framework specifically for the application site that includes specification for building height and plot ratio but does not specify an upper density or density range. The density proposed is excessive relative to recommended density range for a City – Urban Neighbourhood as outlined under the Sustainable Residential Development and

Compact Settlements (2024) and the proposal does not meet the criteria set down under Section 3.3.6 (Exceptions), however these are guidelines that have come into force after lodgement of the application and after adoption of the current Development Plan and Local Area Plan. Notwithstanding such the density levels proposed would not be contrary either Development Plan or Local Area Plan policies, which do not specify upper limits on density. Policy Objective PHP 18 seeks to increase density having regard to impact on adjoining development. In this case the proposal does have an unacceptable impact on a dwelling located immediately adjoining the site to the southeast, however this impact is not a symptom of overall density on site and is related to specific localised design issues/impact on daylight, I would refer to Section 10.8 for further detail on this issue.

10.3.5 CE Report Comment: The CE report considers that the net density of 322 uph and is consistent with the Development Plan on a quantitative level however is considerably higher than that of adjoining residential development with the requirements of Policy PHP18 requiring consideration of impact on residential amenity of the existing properties.

10.3.6 Conclusion on Density: The site is located on a site within a major District Centre within the Dun Laoghaire Rathdown functional area. The site is also located along a major public transport corridor along the N11. I would draw attention to the fact that the site would fall under the category 'City – Urban Neighbourhood' in which densities in the range of 50dph to 250dph (net) shall generally be applied under the Sustainable Residential Development and Compact Settlements (2024). The guidelines under Section 3.3.6 (Exceptions) outlines that there is a presumption in these Guidelines against very high densities that exceed 300 dph (net) on a piecemeal basis. Densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan. In this case the current County Development Plan (2022-2028) or Stillorgan Local Area Plan 2018 Local Area do not provide an upper limit on



density within the respective Plan areas. The proposed development would be in accordance with Development Plan and Local Area Plan policies that seek to increase density and encourage compact development in appropriate locations with the application site with a designated District Centre.

#### 10.4 Housing tenure/Concentration of Build to Rent

10.4.1 Policy Context: As set out above this SHD planning application was lodged with An Bord Pleanála on 08<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 Apartment Guidelines July 2023. The following assessment is therefore based on the 2020 Apartment Guidelines. 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.

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

10.4.3 I have already established under section 10.2 of this assessment that BTR is permitted in principle within the zoning. The site is within a District Centre and is also within 1km/10 minutes walking distance of high frequency public transport in the form of the N11 QBC. The proposal adheres to the location requirements under Objective PHP 28 in relation to BTR.

10.4.4 The proposal seeks to construction 377 Build to Rent units on the site. The current Development Plan includes a Housing Need Demand Assessment (HDNA) under Appendix 2 and such has informed Policy Objective PHP27. 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 (Objective PHP 28).

10.4.5 In terms of existing Build to Rent development in the area there is a recently completed development of 232 BTR units to the north of the site and 389 BTR units in 'The Grange' development located to the south of the site along Brewery Road, which is just over a 10-minute walk from the application site. The CE report does not come to conclusion that the level of BTR units proposed would constitute an over

proliferation but does indicate a preference that the proposal would have provided a mix of BTR and built to sell units. Section 4.3.2 of the Development Plan (Housing Choices) establishes that BTR will be considered a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one area shall be avoided (Objective PHP28).

10.4.6 In this case there are a number of permissions in the area (detailed in the Planning History, Section 4.0) for apartment developments with all but one being BTR units and totalling 621 no. units. The current proposal is for 377 additional BTR units within the area. In this case, I would consider that the quantum of Build to Rent units proposed would result in an over proliferation at this location and would be contrary to section 4.3.2, Policy Objective PHP27 and Policy Objective PHP28 as it relates to housing type/mix and over proliferation of BTR.

10.4.7 CE Report Comment: The CE report does not consider the proposal to be over-proliferation of BTR units, however, it does indicate a preference for a more mixed unit type between BTR and build to sell units.

10.4.8 Conclusion: I would consider having regard to the planning history for the area and the high level of BTR units permitted and completed in the area that the proposal would be contrary County Development Policy 2022-2028, in particular Objective PHP27, which encourages a wide variety of housing, apartment types, sizes and tenures and Objective PHP28, which facilitates Build to Rent in suitable locations, however states that that a proliferation of Build to Rent units in any one area shall be avoided. The proposal in my view would result in an over proliferation of Build to Rent units at this location and would be contrary to Objective PHP27 and Objective PHP28 of the Dun Laoghaire Rathdown County Development Plan 2022-2028. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

## 10.5 Design Strategy-Design & Layout, Public Realm/Open Spaces:

10.5.1 The development consists of 377 apartments and some ground floor commercial uses in 6 no. buildings. The buildings step up moving from 3 storeys to 9 storeys at the junction of the Lower Kilmacud Road and Stillorgan Road with structures located along the road frontages of the site. Building no. s 3, 4, 5 and 6 front onto Lower Kilmacud Road, Building no.s 1, 5 and 6 front onto The Hill and Building no.s 2 and 3 front onto the Stillorgan Road (N11). There are a number of public realm and open space areas including enhanced public realm area at the junction of Lower Kilmacud Road and The Hill, a public plaza along The Hill adjoining Building no.s 5 and 6, a through route/central communal open space running east-west through the centre of the site (pedestrian linkage between The Hill and Stillorgan Road) and 2 no. courtyard gardens, one between building no.s 4 and 5 and one between building no.s 1 and 2.

10.5.2 The proposed public open space areas are accessible to the public and will be taken in charge (apart from plaza space adjacent building no.s 5 and 6, taking in charge map included with documents). The 2 no. courtyard areas to the north and south of the site are to be accessible by residents of the scheme with boundary treatment/gates to limit access. The central area of communal open space, which includes a pedestrian path that runs east-west through the site connecting The Hill and the N11, is to be publicly accessible during daylight hours, but limited in access with boundary treatment to restrict access (metal railings and gated access). The proposal includes a comprehensive landscaping scheme with a mixture of hard and soft landscaping, planting and a play area located centrally on site.

10.5.3 The applicants' Statement of Consistency outlines the characteristics of the development in the context of the 12 criteria set out under the Urban Design Manual (Connections, Inclusivity, Variety, Efficiency, Distinctiveness, Layout, Public Realm, Adaptability, Privacy and Amenity, Parking and Detail Design). The Urban Design Manual has been superseded due to replacement of the Sustainable Residential Development in Urban Area Guidelines (2009) with the Compact Settlement Guidelines (2024).

10.5.4 I am satisfied that overall quantity and quality of open space provide is acceptable and would refer to Section 10.9 regarding Residential Amenities, which elaborates on this matter. Under this section it is outlined how the proposed open space would provide sufficient levels of sunlight on the ground. The proposal provides for a satisfactory degree of permeability with a central pedestrian thoroughfare running east-west between The Hill and the N11. I would note that the lack of unrestricted access in relation to this pedestrian thoroughfare is a negative aspect and I can see no reason why access cannot be provided on a 24-hour basis. I would note that the courtyard areas to the north and south could be maintained as restricted access and the provision of accessibility to the central area maintained on a 24-hour basis as such is sufficiently supervised due to the block configuration. Should the Board be minded to grant permission, I would recommend imposition of a condition requiring maintaining permeability through the central area on a 24-hour basis and no provision of railings or gated access for the central area while maintaining boundary treatment in relation to the 2 no. courtyard areas.

10.5.5 CE Report Comment: The CE report raises no issues regarding the overall quality of layout and urban design of open spaces within the development. The CE report does raise concerns regarding the accessibility of the central communal open space area and the permeability of the site for the public between The Hill and the N11. The CE Report recommends a condition that 24-hour access to the central area and permeability be provided.

10.5.6 Conclusion on Design Strategy-Design & Layout, Public Realm/Open Spaces: I am satisfied that the overall design and layout of the public and communal open space is satisfactory in terms of quality. I am also satisfied that the design and layout is acceptable and in accordance with Section 12.3.1 *Quality Design* of the current Development Plan 2022-2028 which seeks to promote high quality design and layout in all new development. Should the Board be minded to granted, I would recommend that a condition should be attached requiring for 24 hours accessibility

to the central communal space in the interest of maintaining permeability through the site between The Hill and the N11.

## 10.6 Building Height and Visual Impact

10.6.1 Building Height: Policy Context: In terms of national policy, the 'Urban Development and Building Heights Guidelines (2018)' 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.

10.6.2 Section 2.4 of the Apartments Guidelines (2020 and updated versions) 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.

10.6.3 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 current Development Plan 2022-2028 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).

10.6.4 The current Development Plan BHS has been prepared having regard to the provisions of the national Building Height Guidelines (2018) and the performance criteria outlined in Table 5.1 of the Development Plan satisfactorily incorporates the criteria associated with SPPR 3 and section 3.1 of the Guidelines. In this case, the site falls under Policy Objective BHS2-Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan. The site is located within the boundary of the Stillorgan Local Area Plan 2018, which is still in force. Section 4.5.3.2 of the Plan outlines a Site Development Framework for this site with building height identified to be a benchmark height of five-storeys across the site, with a landmark building of up to nine storeys at the corner of the N11/Lower Kilmacud Road junction. The transition between the landmark height (9 storeys) and the benchmark height (5 storeys) must be designed to ensure that excessive massing or bulk in the overall design does not detract from the 'landmark' nature of the nine-storey element. An indicative Plot Ratio of 1:2.5 is also identified for this site.

10.6.5 The proposed development deviates from the Site Development Framework. The development does feature a landmark building of up to nine-storeys at the corner of the N11/Lower Kilmacud Road junction, however the height of the other structures on site consistently exceeds the 5-storey benchmark height, with 7-8 storey along Stillorgan Road, 6-7 storeys along Lower Kilmacud Road and 6-storeys along the Hill. The BHS acknowledges the policies of the Stillorgan LAP and in particular the benchmark height identified for the Blakes/Esmonde Motors site. Policy under the BHS including BHS 2 does state that "there may be instances, however, where an argument can be made for increased height within the plan area and in those instances any such proposals would have to be assessed in accordance with any

new performance criteria as outlined in the County Development Plan and SPPR3”.

10.6.6 Section 5 of the BHS relates to Performance Based Criteria with Table 5.1 providing the criteria for assessing proposals for increased height, which are based on the criteria under Section 3.2 of the Building Height Guidelines. The applicants Statement of Consistency (Table 7.4) contains an assessment of how the proposal complies with the performance criteria for increased building height under Table 5.1.

10.6.7 As the proposed development is higher in height than the specified benchmark height for the site under the Stillorgan LAP, the proposal must be assessed in the context of the performance criteria under Table 5.1 of the BHS.

At County Level: The proposal would secure the objectives of the NPF encouraging compact growth and the provision of additional residential accommodation within a major District Centre. The site is well served by public transport being adjacent the N11 public transport corridor, which is QBC and features a high frequency of bus services. The development would enhance the public realm of the area providing for frontage development along Lower Kilmacud Road, The Hill and Stillorgan Road with public realm upgrades. The proposal does not impact any protected views or prospects in the area. The infrastructural capacity of the area would be sufficient to cater for the proposal.

10.6.8 At District/Neighbourhood/Street Level: The proposal is satisfactory in terms of responding to the natural and built environment and would contribute to the neighbourhood streetscape, is sufficiently varied in scale to not appear monolithic, uses high quality materials, makes a positive contribution to legibility along the public road frontages and improves the public realm, positively contributes to the mix of development type and unit type in the area.



10.6.9 At Site/Building Scale: The proposed design provides a satisfactory development in context of daylight and sunlight access as well as minimising overshadowing (explored in more detail in later sections of the report). The proposal is generally satisfactory in the context of adjoining residential amenity in relation to overlooking and overshadowing (elaborated in later section of this assessment) however, there are some aspects of the proposal that would impact the property immediately to the site in a disproportionate manner (overbearing and daylight impact). This aspect is specific to a portion of the site where it adjoins an existing dwelling and is not a site wide issue and may be dealt with by way of amendment. The site is not located within an Architectural Conservation Area and has no impact on any structures of architectural conservation value. The development is designed with energy efficiency in mind with an Energy and Sustainability Statement accompanying the application to demonstrate how the proposal achieves energy efficiency.

10.6.10 County Specific Criteria: The requirement for specific assessment of a number of factors have been satisfied and in this case a number of specific assessments have been undertaken and submitted with this application, specifically in relation to sunlight/daylight, and noise impact. A Natura Impact Statement and a screening for Environmental Impact Assessment have been submitted. I am satisfied that adequate information has been submitted and is available to enable me to undertake a comprehensive assessment of the impact of the proposed development.

10.6.11 CE Report Comment: The height exceeds the benchmark height specified in the Stillorgan LAP for the application site. Policy BHS2 does allow for consideration of increased height subject to compliance with the performance-based criteria under Table 5.1. The CE report outlines how the development generally meets these criteria which are derived from the Building Heights Guidelines, 2018 (Section 3.2) apart from in relation to impact on an existing dwelling to the south. The Planning Authority accept the building height subject to some level of amendment by way of

condition to deal with impact on the dwelling to the south and have suggested a number of amendments in this regard.

10.6.12 Conclusion on Building Height: The proposed development is within the boundaries of the Stillorgan LAP, which includes a Site Framework Plan for the site including a benchmark height of five-storeys transitioning to a nine-storey landmark building. The Development Plan does state that the policies and objectives of the LAP should be applied. The Building Height Strategy (BHS) allows for consideration of taller building subject to compliance with the criteria under Table 5.1 which are derived from the criteria under Section 3.2 of the Building Heights Guidelines. The building heights proposed would be in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas and would satisfy the criteria set down under Section 3.2 of the Urban Development and Building Heights Guidelines (2018) and the criteria under Table 15.1 (Appendix 5) of the current Development Plan. Having regard to such, the proposed development would be in compliance with the policies and objectives in relation to building height set down under the Dun Laoghaire Rathdown Development Plan 2022-2028. I would note that there are issues related to the impact on an existing dwelling to the south, however such are not exclusively related to site wide building height and rather to specific design and layout issues where the two properties adjoin and possibly could be dealt with by way of condition requiring amendment. I would refer to the section on Adjoining Amenity that elaborates on this issue.

10.6.13 Visual Impact: The applicants have 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.

10.6.14 The third-party observations raise concern about excessive scale, bulk and the fact the proposal is out of character with existing development in the area. The area has a varied character ranging from single-storey, dormer and two-storey dwellings to the south and southwest, two-storey commercial to the west and up to eight-storey apartment development to the north. The Townscape and Visual Impact Assessment considers the Verified Views from 23 points in the surrounding area. The verified views show the post development scenario, the visual impact of the permitted scheme on site (ref no. 300570) and the proposed development. From the 23 view locations identified it is assessed that the proposal will have a no effect, a neutral or positive impact from the majority of the viewpoints (22). The assessment classifies the visual impact as moderate negative from viewpoint 13/13a (from The Hill to the south of the site). The impact from the immediately intervening area is assessed as neutral or positive and from more distant locations neutral or no effect. The applicant emphasise that the visual impact of the proposal is not significantly different from the visual impact of the permitted development (ref no. 300570) on site and has provided photomontages to compare such.

10.6.15 The application site is defined by a significant level of road frontage, with frontage along the N11, the Lower Kilmacud Road and The Hill. Along the N11 frontage the development steps up (south to north) from 3, 5, 7, 8 to 9 storeys at the junction of the N11 and Lower Kilmacud Road. Along Lower Kilmacud Road the development steps up from (east to west) 3,5, 6, 7, 8 to 9 storeys at the junction of the N11 and Lower Kilmacud Road. Along The Hill the development steps up from 3,6 to 7 storeys moving southeast to the northwest with ground levels increasing moving to the northwest. The Lower Kilmacud Road frontage has the most significant concentration of the development proposed with no major gaps between structures. The ground level also reduces moving east towards the N11.

10.6.16 I am satisfied that having regard to the location of the site along prominent/major routes such as the N11 and Lower Kilmacud Road that the overall visual impact of the development would be satisfactory and that these frontages can absorb the scale of development proposed without having an adverse visual impact. The

development will provide for a defined streetscape and improvements to public realm and overall townscape. I would consider that there is an appropriate transition in height between existing development and the application site with such having mostly public road frontage defining its boundaries. I am satisfied with the overall visual impact along The Hill with a transition in scale from two-storeys to three on the application site with this frontage having the least concentration of structures with a visual break to provide the central open space. The proposal provides sufficient variation and quality of external finishes. I am satisfied the wider visual impact of the proposal can be adequately absorbed and that views of the development are partial and mitigated by existing structures and vegetation. I am satisfied the visual impact in the immediate vicinity is acceptable and that the nature and scale of development is in keeping with the visual character and scale of emerging development within the wider District Centre the site is part of.

10.6.17 CE Report Comment: The CE report raise no concerns regarding the overall visual impact of the development at this location, however, have recommended a number of amendments that are not motivated by visual impact and relate to adjoining amenities/prevention of overlooking, increasing open space and parking. The only issue raised regarding visual impact relates to the southwestern elevation of Building 6, which it is recommend be amended with an alternative finish to adequately bookmark the development given the prominence of the elevation as viewed east along Lower Kilmacud Road.

10.6.18 Conclusion: I am satisfied that the overall visual impact of the development although entailing significant change in scale from the existing arrangement on site can adequately be absorbed at this location and would be acceptable in the context of the visual amenities of the area. The overall architectural character and scale of development is in keeping with the emerging character of the wider District Centre the site is part of as evidenced by the recently constructed development in the vicinity (north of the site). In response to the CE report comments regarding the southwestern facade of building no. 6, I would consider that the overall visual impact of such is acceptable in the context of visual amenities of the area. There may be

scope for providing an improved facade treatment, however I would consider what is proposed to be acceptable in terms of architectural character and visual amenity.

## 10.7 Residential Amenities

10.7.1 Daylight, Sunlight and Overshadowing: 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, 2020 and subsequent updated versions also state that planning authorities should have regard to these BRE or BS standards.

10.7.2 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 following.

‘Site layout planning for daylight and sunlight: A guide to good practice - 2011’  
(referred to in this report as the “BRE guidelines”)

BS 8206-2:2008- Lighting for Buildings

IS EN 17037:2018-Daylight in Buildings

BS EN 17037:2018-Daylight in Buildings

10.7.3 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).

10.7.4 Internal Daylight and Sunlight: Internal daylight standards has been assessed using 3 no. methods.

BRE (209) Average Daylight Factor (ADF): 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 daylight 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.

Target illuminance level under EN 17037:2018: Three levels, minimum, medium and high with minimum level recommended to be provided. Minimum level is 300 lux achieved on over 50% of the floor area for 50% of the available daylight hours, and a minimum level of 100lux on over 95% of the floor area for over 50% of the available daylight hours.

Target illuminance BS EN 17037: 2018 National Annex: 100lux for bedroom, 150 lux for living rooms and 200 lux for kitchens. Recommended target of 200lux for shared kitchen/living/dining layout.

10.7.5 The result for each block is as follows:

	ADF (BR209)	EN 17037:2018	BS EN 17037:2018
<b>Block 1</b>			
Bedroom (99)	100% Pass (99)	100% (99)	100% (99)
LKD (97)	83% Pass (64)	90% Pass (69)	100% (97)
<b>Block 2</b>			
Bedroom (126)	99% Pass (125)	100% Pass (126)	100% Pass (126)
LKD (95)	83% Pass (79)	93% Pass (88)	99% Pass (94)
<b>Block 3 and 4</b>			
Bedroom (168)	91% Pass (153)	86% Pass (145)	97% Pass (163)
LKD (114)	79% Pass (90)	87% Pass (99)	96% Pass (110)
<b>Block 5 and 6</b>			
Bedroom (138)	97% Pass (134)	91% Pass (126)	98% Pass (135)
LKD (91)	82% Pass (75)	97% Pass (88)	100% Pass (91)
<b>Total</b>			
Bedroom (531)	96% Pass (511)	93% Pass (496)	99% Pass (523)
LKD (377)	82% Pass (308)	91% Pass (344)	99% Pass (372)

#### 10.7.6 Sunlight assessment of interior rooms was based on two methodologies:

BRE Guide/BS8206-2:2008: Interiors where occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours (APSH), including at least 5% annual probable sunlight hours (WSPH) during the winter months (21<sup>st</sup> September and 21<sup>st</sup> of March).

IS EN 17037:2018: Minimum recommendation for exposure to sunlight 1.5 hours on the 21<sup>st</sup> day of March.

In this case all main living room windows have been assessed (380).

Tests	100% (380 windows)
APSH (25%)	59% Pass (226 windows)
WPSH (5%)	72% Pass (272 windows)
Sunlight Exposure (1.5hours)	82% Pass (311 windows)

10.7.7 A number of compensatory measures are outlined and include increased glazing to, altered layouts to maximise daylight, relocated balconies to improve daylight to apartments where performance is an issue, white render in courtyard areas to increase surface reflectance and adjustment of the massing of Building 2 to increase sunlight. In addition, 84% of the apartment units have a floor area 10% greater than the minimum floor area under the Apartment Guidelines (2020 and updated versions). 53% of the units are dual aspect (well above 33% standard) and an additional 20% of communal open space is proposed across the site.

10.7.8 In relation to sunlight to amenity spaces the recommended standard (BRE 209) is for a space to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. The assessment relates to 4 no. areas.

Area	% receiving >2hours (21 <sup>st</sup> March)
(A) Public Open Space (northeast of site)	74%
(B) Courtyard space between building no. s 5 and 4	78%



(C) Central spaces running east-west through the site	83%
(D) Courtyard space between building no. 1 and 2	40%

10.7.9 Having regard to the range of compensatory design measures proposed, I am satisfied that with the level of compliance with the internal standards for daylight and sunlight is acceptable for this type and scale of development on this urban infill site. I further note that the sun hours on ground analysis found the proposed communal amenity areas will meet the BRE guidelines by achieving 2 hours of sun on the ground to over 50% of the assessed area on the 21st March, thereby comfortably meeting the BRE target criteria. 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 and provides for a development with adequate residential amenity standards in regard to daylight and sunlight.

10.7.10 CE Report Comment: The CE report considers that the internal and external daylight and sunlight standards for the proposed development to be satisfactory in the context of urban development and based on compensatory measures implemented.

10.7.11 Conclusion on Daylight, Sunlight and Overshadowing: The proposed development provides for an acceptable standard of internal daylight and sunlight as well as sunlight levels within external communal amenity spaces to ensure adequate residential amenities for future residents.

10.7.12 Quality of Units – Floor Area/Layout/Amenity: For assessment purposes the units are assessed against the standards set out under Sustainable Urban Design:

Standards for New Apartments. 2020. At the time of lodgement, the 2020 Apartment Guidelines were in place, which indicated that minimum floor areas did not apply to BTR development. Notwithstanding such all units are above the minimum floor area specified and meet the internal dimension standards recommendations of the Apartment Guidelines (2020 and all subsequent updated versions). 84% of the apartments exceed the minimum floor area standard by a minimum of 10%. 53% of the units are dual aspect units, which is above the minimum standard of 33% recommended under the Apartment Guidelines (2020 and all subsequent updated versions). The proposal also complies with recommendations of the Apartment Guidelines (2020 and all subsequent updated versions) in terms of internal storage and units per core.

10.7.13 Current Development Plan policy (2022-2028) includes a general requirement for separation distance of circa 22 metres between opposing windows in the case of apartments developments up to three-storeys in height. It does state that 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. The current Development Plan also states in relation apartment storage that 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 (internal) requirements.

10.7.14 The level of separation between blocks and opposing windows varies through the scheme (not angled). There is only one instance where there are directly opposing facades within the scheme, which is the eastern facade of building no. 5 facing the western facade of building no. 4 across a courtyard area with a separation of 21.549m. In all other instances facades are angled relative to each other. The level of separation between the eastern facade of building no. 1 and western facade of building no. 2 reduces moving southwards on site and varies between 42.75m down to 8.193m. SPPR1 of the Sustainable and Compact Settlement Guidelines 2024 state that statutory Development Plan should not contain objectives for

minimum separation distance above 16m and that separation distance between opposing windows serving habitable rooms is acceptable with a lesser distance where there are no opposing windows serving habitable rooms or suitable privacy measures are applied.

10.7.15 In this case separation distance of 16m between blocks is generally provided in most cases. In the case of Building 1 and 2 the separation distance reduces moving north to south with less than 16m between internal facing facades to the south of the site. Where separation distances between blocks are less than 16m, facades are angled in relation to each other, which would offset any potential overlooking of habitable spaces. I am satisfied that in general separation distances and relationship between buildings would be acceptable in the context of the residential amenity of future occupants.

10.7.16 No external storage is proposed for the apartment units and such a standard is not advocated under the Apartment Guidelines (2020 or any subsequent updates). In all cases units comply with the standards set down under the Apartment Guidelines (2020 or any subsequent updates) for internal dimensions including internal storage. I would refer to the fact the proposal is a Build to Rent scheme and that the considerations of SPPR 7 and 8 of the Apartment Guidelines 2020 apply. I am satisfied that the proposal provides for sufficient standard of floor space and amenity in the case of all apartment units and the lack of external storage space for apartments would not merit refusal of the proposal.

10.7.17 CE Report Comment: The CE report indicates that the overall quality of the development is satisfactory and raises no issues regarding separation distances or the lack of external storage.

10.7.18 Conclusion on Quality of Units – Floor Area/Layout/Amenity: The proposed development provides for a development that is compliant with the standards and recommendations of the Apartment Guidelines (2020 and subsequent updates) in

terms of internal dimensions and internal storage despite being a Build to Rent development, provides for sufficient separation between blocks and adequate design mechanisms to prevent overlooking in cases where separation distances are less than 16m. The proposed development will provide adequate amenity for future residents.

10.7.19 Open Space/Communal Amenities: The Apartment Guidelines (2020), at the time of lodgement and specifically in relation to BTR developments, allows for flexibility in the provision of storage, private amenity space and communal amenity space on the basis of the provision of alternative, compensatory communal support facilities and amenities (SPPR 8). In relation to private amenity space, 50% of the units have balcony areas. Alternative compensatory communal open space of 1,024sqm is provided as well as resident support and amenity facilities of c. 1,016sqm (lounge, break-out/co-working, café, concierge, gym). The current Development Plan (2022) under section 12.3.6 requires compliance with SPPR 7 and 8 of the Apartment Guidelines (2020) or any amending SPPR. All units are to have private open space in the form of a balcony with a reduction in such only considered where at least 10% high quality useable, communal and/or additional compensatory communal support facilities are provided.

10.7.20 Open space provision is outlined within the Design Statement. Public open space on site amounts to 1,177sqm or 10% of the net development and consists of plaza areas at the junction of Lower Kilmacud Road and The Hill (existing public realm areas under control of DLRCC) and adjoining building no.s 5 and 6. Communal open space is provided in three areas, a central space that runs east-west through the site and 2 no. courtyard spaces, one to the north of the site between building No.s 5 and 4, and one to the south of the site between building No.s 1 and 2. A total of 3,238sqm of communal open space is provided. Under the Apartment Guidelines the recommended standard is a level of 2,214sqm. The level of communal open space is well in excess of the recommend standard with the excess 1,024sqm of such space being described as balcony compensatory space by the applicant.

10.7.21 The current Development Plan (2022-2028) specifies under Table 12.8 that public open space (residential development in the existing built-up area) shall be 15% of the site area. Development plan policy does acknowledge that there are instances (high density urban schemes and /or smaller urban infill schemes) where adequate communal space may be provided but no actual public open space. In these cases, a development contribution under Section 48 in lieu will be sought. As identified earlier, the proposal does provide public open space at a rate of 10% of the net site area. It is also notable that the central spaces running east-west will be publicly accessible during daylight hours (controlled access). There is a shortfall of public open space, which is permissible under Development Plan policy subject to a development contribution under Section 48 in lieu. In this regard I am satisfied subject to application of such a contribution in the event of grant of permission, the proposed public open space provision would be in accordance with Development Plan policy.

10.7.22 CE report Comment: The CE report considers that provision of public and communal open space is satisfactory in the context of quantity and quality. In terms of the shortfall of 15% public open space (10% provided) consideration is given to the provision of the Community Sport Hall and no development contribution in lieu of public open space provision is recommended. The CE report does raise concerns regarding the lack of accessibility though the central area for the public and recommends that 24-hour access is provided whereas the proposal entails limited access during daylight hours to areas classified as communal open space.

10.7.23 Conclusion on Open Space/Communal Amenities: The level of communal open space is well in excess of the recommended standards under the Apartment Guidelines (2020 and subsequent updates). The provision of 50% of the units with private balconies would be acceptable in this case and comply with development plan policy as there is provision of adequate alternative, compensatory communal

support facilities and amenities with additional communal open space and residential facilities provided at ground floor level. Public open space provision of 10% of the site area is a reasonable standard having regard to the density of the scheme and its context in a district centre and along a public transport corridor. I would, however, consider that a development contribution in lieu of provision of the full 15% public open space is merited in the event of a grant of permission. The CE reports' view in regard to the Community Sports Hall in consideration of public open space is noted, however I am of the view that such does not constitute public open space and in line with Development Plan policy a development contribution under Section 48 shall be paid in instances where the required percentage of public open space is not provided to comply with Development Plan policy. Subject to application of a condition requiring a development contribution in lieu of shortfall of public open space, the proposal would be acceptable in context of provision of both communal and public open space. Should the Board be minded to grant permission a condition in this regard should be imposed.

#### 10.8 Adjoining Amenity

10.8.1 The site is triangular and features significant road frontage along the Lower Kilmacud Road, The N11 and The Hill. There is only property immediately adjacent the site in separate ownership, a two-storey detached dwelling (Dun Fanoir) located to the southeast. The application site includes part of its curtilage). Development along the opposite side of The Hill consists of a mix of single-storey and two-storey commercial development. There is residential development to the south of the site located along Glenalbyn Road and Linden Lea Park (mixture of single-storey, dormer and two-storey dwellings). To the north of the site on the opposite side of Lower Kilmacud Road is a recently constructed apartment development (BTR units) of up to 8-storeys and a 9-storey development under construction providing apartments and a new library. The western frontage of the site is defined by the N11 dual carriageway and beyond it are existing two-storey dwellings fronting Stillorgan Park Avenue. The issue of excessive scale causing overlooking and overshadowing of existing properties is raised in the third-party observations in particular the dwellings to the west along Stillorgan Park

Avenue. The issue of noise impact is also raised in regard to the vented car park as well overspill of parking into residential areas.

10.8.2 Daylight/Sunlight and Overshadowing: 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 following.

‘Site layout planning for daylight and sunlight: A guide to good practice - 2011’ (referred to in this report as the “BRE guidelines”).

BS 8206-2:2008- Lighting for Buildings

IS EN 17037:2018-Daylight in Buildings

BS EN 17037:2018-Daylight in Buildings

The existing properties assessed in this regard are the following.

Linden Lea Park, Glenalbyn Road and The Hill to the south/southeast.

Stillorgan Park Avenue to the west.

Patrician Villas to the northwest.

New developments on the opposite side of the Lower Kilmacud Road (north) on former Leisureplex and Old Library site.

10.8.3 Daylight: Daylight levels within existing properties have been assessed under the BRE Guidelines/BS 8206-2:2008 using Vertical Sky Component (VSC). The Vertical Sky Component (VSC) is a measure of how much direct daylight a window is likely to receive. The Vertical Sky Component is described as the ratio of the direct sky illuminance falling on the vertical wall at a reference point, to the simultaneous horizontal illuminance under an unobstructed sky. A new development may impact on an existing building, and this is the case if the Vertical Sky Component measured at the centre of an existing main window is less than 27%, and less than 0.8 (20%) times its former value. The applicant’s assessment includes the VSC values for

existing properties in the existing pre-development scenario, the post development scenario as well as providing the VSC values yielded at the same existing properties if the previously permitted development on site (ref no. ABP-300520-17) had been implemented.

10.8.4 In the case of the existing dwellings along Linden Lea Park, Glenalbyn Road, Patrician Villas and Stillorgan Park Avenue the existing values at windows tested are above the 27% target value post development and retain above the target value post development in all cases apart from 2 no. windows, one (9) at ground floor level to the rear of 'Wolverston', Stillorgan Park Avenue and one (14) at ground floor level to the rear of no.2 Stillorgan Park Avenue. In these cases, the value is reduced by 68% and 70% their former value.

10.8.5 In relation to the 3 no. houses to the south of the site the results vary. The house furthest (single-storey dwelling, 'Madonna') to the south has 8 no. windows tested with 7 having VSC values above the 27% target and retaining such post development. One window has the target value pre-development and fall below such post development but still retains 99% of its former value. The next furthest away (dormer dwelling, 'Giasua') has 3 no. windows tested with one of the windows above the target level pre-development and retaining this status post development. The other 2 no. windows are below the target value pre-development and are reduced post development to 89 and 90% of their former value. The nearest dwelling to the site and only existing dwelling immediately adjoining the site is a two-storey dwelling 'Dun Fanoir' and such has 8 windows on its northern facade facing the site with 10 no. windows assessed. Of the 10 no. windows all have above the target level of 27% pre-development. 2 no. windows retain above the target value post development (2 no. windows on western facade) with all 8 no. windows on the northern façade falling below the target value post development and ranging between 13-44% their former value.



10.8.6 The daylight and sunlight analysis submitted includes reference to the daylight (VSC) standards at adjoining properties yielded if the permitted development (ABP-300520-17) on the site had of been progressed in comparison to the current proposal. The assessment highlights that the current proposal has a similar but marginally lesser impact on daylight levels at existing properties.

10.8.7 I am satisfied that the proposal would have an acceptable impact on daylight levels to windows in case of all properties located in surrounding area apart from one property, which is the two-storey dwelling to the southeast (Dun Fanoir). The VSC results show that 8 out of the 10 windows serving the dwelling (8 on the side/northern elevation and 2 on the front elevation facing east) assessed have their values reduced from above the 27% target value to below the target value and are between 13-44% of their former value. The applicant in their assessment highlights that 6 of the 8 windows on the northern elevation are secondary windows to the space they serve and reduction in daylight will be lessened. I have examined the layout of this dwelling (attached) and would note that the proposal will result in the loss of significant levels of daylight to windows on the northern elevation and in some cases, such do serve habitable rooms. I would be of the view that the proposal in its current form has a disproportionate impact on daylight level to the existing dwelling to the extent that it would be seriously injurious to the residential amenities of the existing property. I note the suggested amendments in the CE Report; however, I cannot come to the conclusion that such an amendment will adequately address the daylight impact of the proposal as I have no data to show that such will greatly improve daylight values for the windows serving this property. The proposed development has a significant impact on daylight levels with VSC values post development extremely low compared to target values. I would question whether the suggested amendments (CE Report) are sufficient to raise the values to an acceptable degree and that the proposal as it stands reduces existing values significantly below target values under the BRE Guidelines and to what I consider to be an unacceptable degree.

10.8.8 Sunlight: Sunlight levels assessed under the BRE Guidelines/BS 8206-2:2008 using Annual Probable Sunlight Hours (APSH). Annual Probable Sunlight Hours (APSH) is a measure of how much direct sunlight a window is likely to receive. APSH will only be assessed where some part of the new development is within 90 degrees due south of a main window wall of an existing building. Sunlight may be adversely affected if APSH is less than 25% or less than 5% between 21 September and 21 March and receives less than 0.8 times its former value and the reduction over the whole year is greater than 4% of APSH.

10.8.9 The existing properties assessed in this regard are the following.

Stillorgan Park Avenue (northeast of the site).

Recently constructed residential development on the Leisureplex site (northwest of the site)

For the houses along Stillorgan Park Avenue all windows tested meet the target values of 25% and 5% (Winter Probable Sunlight Hours (WPSH)) between 21 September and 21 March. For the development on the former Leisureplex site the results (61 living/kitchen windows) indicate that 55 meet the target value for APSH and all meet the target value for WPSH. 6 windows fall below the APSH standard of 25%.

10.8.10 In relation to sunlight to amenity spaces the recommended standard (BRE 209) is for a space to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. The assessment of existing adjoining amenity spaces is in relation to the 2 no. dwellings to the southeast (along the Hill) and 7 no. rear gardens serving dwellings along Stillorgan Park Avenue to the northeast. The results indicate that all the tested spaces currently have in excess of the target value of 50% of the area receiving at least 2 hours with values between 65% (immediately adjoining dwelling to southeast) up to 97%. The results indicate that post development there will be no

change in values at the existing properties with all amenity space retaining above target value.

10.8.11 A shadow study is also included showing the impact of the proposal for various times of the year (21<sup>st</sup> of March, June and December). The analysis shows the existing scenario, the scenario with the permitted development on site (300520) and the proposed development scenario. I am satisfied that the overshadowing results indicate that the proposal would have no significant or adverse impact in terms of overshadowing in relation to existing residential properties to the south, southwest, east or northeast. The main overshadowing impact is to the north of the site and the recently constructed developments on the opposite side of Lower Kilmacud Road. I am satisfied that the overall scale and pattern of development provided for along the northern road frontage of the site is in keeping with the pattern of development that has developed and that as noted earlier in the assessment, daylight and sunlight standards at these development to the north is of an acceptable standard.

10.8.12 CE Report Comment: The CE report considers that the proposal in general is acceptable in regard to daylight, sunlight and overshadowing apart from in relation to the dwelling immediately to the southeast (Dun Fanoir) with concerns regarding impact on levels of daylight. It is considered that the amendment suggested to Building no. 1 (omission of one floor) and 2 (omission of 3 no. units) would improve the relationship between the proposal and the existing dwelling.

10.8.13 Conclusion on Daylight, Sunlight and Overshadowing: I am satisfied that in all cases apart from the existing dwelling to the southeast (Dun Fanoir) that the proposal would have an acceptable impact in regards to daylight, sunlight and overshadowing. The proposed development has a disproportionate impact on a high level of existing windows serving the dwelling immediately to southeast and despite the claims of the applicant, these are windows that serve habitable spaces as evidenced by the layout

of the existing dwelling (attached). The CE report has suggested a number of amendments that include omission of a floor level in Building no. 1 and omission of 3 no. apartments at the southeastern end of Building no. 2. I have no way of quantifying how these amendments would impact on daylight levels at the existing dwelling so do not consider I can come to the conclusion that such would address this issue given the level of severity of impact on existing daylight levels. I would consider that the proposal has a disproportionate and negative impact on daylight levels to the majority of windows serving habitable spaces in the existing dwelling immediately to the southeast of the site. In this regard, the proposal would be injurious to the residential amenities of the existing dwelling and would, therefore, be contrary to the proper planning and sustainable development of the area.

10.8.14 Physical Impact/Overlooking: The physical relationship between the proposed development is raised as a concern with issues concerning overall physical scale and impact of overlooking. In particular, the impact of overlooking on the properties along Stillorgan Park Avenue (located to the west on the opposite side of the N11) is raised. In relation to the dwellings to the west on the opposite side of the N11, the development along this frontage consists of 2 no. blocks, building no. 2 (3, 5, 7 and 8 storeys) and building no. 3 (9 storeys) along the N11 frontage. Building no. 2 has a limited level of balconies on its western facade whereas building no. 2 has balconies serving all units orientated west on this frontage. The existing dwellings along Stillorgan Park Avenue back onto the N11 with existing boundary treatment being a 2m high wall as well as existing vegetation that is located on the roadside of the existing wall. The existing boundary treatment and vegetation provides a good degree of screening to the existing properties along Stillorgan Park Avenue. The level of separation between the western façade and the rear elevation of the existing dwellings is approximately 48-50m in most cases and approximately 32m between the western facade of the development and the rear boundary of the amenity areas of the existing dwellings. Despite the orientation of several units/windows to west and up to 9 storeys, I would consider that there is a sufficient degree of separation between the proposed development and the existing residential properties and their associated amenity areas along Stillorgan Park. The proposed development is

separated from the existing properties by the N11, which is a wide dual carriageway. I would also consider the existing boundary treatment and vegetation is sufficient to maintain privacy to the existing dwellings to the west.

10.8.15 The development along The Hill consists of building no. 1 (3, 5, 7 and 8 storeys), building no. 5 (6-storeys) and building no. 6 (5-6-storeys). The majority of the development on the opposite side of The Hill is one and two-storey commercial development (opposite building no. s 5 and 6). There are existing dwellings located to the south of building no. 1 located in Linden Lea Park and along Glenalbyn Road. The relationship between the proposal and existing commercial properties along the Hill is acceptable and raises no concerns in terms of overlooking or overbearing impact. In relation to building no. 1, I am satisfied that there is sufficient distance between the southwestern elevation of Building no.1 and the existing dwellings to the south, including existing boundary treatment and vegetation so as the proposal would not have an overbearing impact or result in unacceptable overlooking within an urban context such as this.

10.8.16 The development along the Lower Kilmacud Road is the most intense concentration of development along any of the 3 no. road frontages to the site with buildings no.s 3 (7-9-storeys), 4 (7 storeys), 5 (6 storeys) and 6 (5-6-storeys) fronting onto the public road. This frontage includes a significant level of units orientated north with associated windows and balconies. Development immediately opposite this frontage includes the up to 8 storey apartment development recently completed and a 9 storey apartment development under construction. The type and nature of development on the opposite side of the road is similar in both scale and type and the level of separation between the proposed north facing facade and existing development is just over 22m at their closet points. Having regard to the fact that the level of separation is above that specified under current Development Plan policy between apartment blocks over three-storeys, I am satisfied that there is a sufficient degree of separation and that the proposal would have no significant physical or overbearing impact on the developments on the opposite side of Lower Kilmacud Road.

10.8.17 In the case of development to the southeast of the site, there are 3 no. dwellings with the nearest (Dun Fanoir), a two-storey dwelling. The gable of building no.s 1 and 2 are located adjacent the boundary with the existing dwelling. In particular, building no. 2 has balconies at its southeastern corner that are in close proximity and elevated relative to the rear amenity space serving Dun Fanoir whereas the previously permitted proposal on site had no windows or balconies orientated towards the existing dwelling to the south. The CE report has suggested omission of units at the southeastern corner at fourth (B02.402), fifth (B02.0502) and sixth floor (B02.0602). I would consider that the amendments would address the issue of overlooking in regard to the existing property with removal of the three units suggested, however I would still consider that the development has the potential to have an overbearing impact and would refer to my assessment of daylight impact earlier.

10.8.18 CE Report Comment: The proposal is considered to be generally acceptable in regard to issues of impact on adjoining property apart from in the case of one existing dwelling. Some concern is expressed regarding impact on the dwelling immediately to the southeast (Dun Fanoir). Building no. 1 is overbearing to Dun Fanoir and the previously permitted scheme on site had a lesser impact. Building no. 2 is considered to have an overbearing impact due to proximity of Building no. 2 to the side boundary and fenestration on the northwestern elevation of the existing dwelling. Alterations are recommended by way of condition including omission of floor 5 of Building no. 1 (reducing it from seven to six-storeys) and omission of 3 no. units from Building no. 2 at southern end of the structure with one each being removed from level 4, 5 and 6 as well as fenestration alterations to the southeastern elevation.

10.8.19 Conclusion on Physical Impact/Overlooking: I would consider that in the main the proposal provides for a satisfactory level of separation and physical impact in relation to properties in the vicinity. I do consider, however that the proposal as submitted does have a physically overbearing impact on the existing dwelling

located immediately to the southeast (Dun Fanoir) and impact on privacy due to the proximity and elevation of balconies serving 3 no. units at the southeastern elevation relative to rear amenity space. I do consider that the proposed amendments including omission of the 3 no. units in Building 2 would mitigate the issue of overlooking. I would however consider that it is hard for me reach a conclusion that the proposed amendments would alleviate all concerns in regard to physical impact on the existing dwelling due to scale and proximity and would reiterate my concern regarding impact on daylight levels outlined earlier. I would consider that the southern portion of the development needs a reconsideration that cannot be dealt with by way of condition amending the scheme. In this regard, the proposal would have an overbearing impact on the existing dwelling immediately to the southeast of the site due to scale and proximity as evidenced by impact on daylight levels to the majority of windows serving the existing dwelling including habitable rooms. The proposed development would be injurious to the residential amenities of the existing dwelling and would, therefore be contrary to the proper planning and sustainable development of the area.

10.8.20: Noise/Disturbance: The third-party observations raise concerns regarding the impact of noise and disturbance due to the basement car parking being vented to certain streets. Due to changes in levels, there are vents on the elevations fronting The Hill (under building no. 1) and the N11 (building no. 2). I would question whether this design would lead to any noise disturbance in relation to existing residential properties. In the case of the N11 side of the development such is unlikely to have any noise impact over and above that of the traffic noise along the N11. In relation to The Hill the amount of venting is limited in sized, and I would consider that the level of intensity of traffic movements is unlikely to generate significant noise impact.

10.8.21 CE Report Comment: No objection raised by the Planning Authority in relation to noise with it acknowledged that the proposal includes no roof garden open space areas and the operational phase being unlikely to give rise to levels of noise inappropriate in a residential context within a district centre.

10.8.22 Conclusion on Noise/Disturbance: I am satisfied that based on the fact the proposal is a Build to Rent development with on-site management taken in conjunction with the lack of any roof level open spaces, that the proposal is unlikely to generate any significant or adverse noise levels or disturbance regarding adjoining properties. The site is located in a designated District Centre and there is already significant level of activity in the area with the proposal unlikely to generate operational noise over and above baseline conditions.

## 10.9 Traffic and Transportation:

10.9.1 The application site is to be accessed by two vehicular entrances, both off The Hill. One entrance to the north basement level under building no. 5 and one entrance to the south basement under building no. 1. The 2 no. basements provide for 119 car parking spaces (5 accessible), 6 motorcycle parking spaces and 836 two tier bicycle parking spaces. 30 bicycle parking spaces are provided at surface level. 1 no. car parking space is provided at surface level and 5 of the car parking spaces on site are to be reserved for car sharing. The site is located adjacent the N11 QBC.

10.9.2 Traffic Impact: A Traffic & Transport Assessment (TTA) was submitted with the application. To accurately assess the impact of the proposed development in the future, the base traffic flows for the local network established by traffic surveys were expanded to the Year of Opening (2024) and the Design Years (2029 and 2034) using TII growth factors. Consideration is also taken of the permitted development on the old Leisureplex site (ref no. 305176). A junction capacity analysis of a number of key junctions, Junction 1, N11/Lower Kilmacud Road/Stillorgan Park Road and Junction 2, Lower Kilmacud Road/The Hill/Old Dublin Road. The analysis indicates that the junctions currently operate within an acceptable capacity and that the proposed development will have a negligible impact on the operation of these junctions in the design years. The junction assessment shows that for the years assessed the traffic increase at Junction 1 is less than the 5% threshold prescribed under the TII Traffic and Transport Assessment guidelines meaning no further



assessment of Junction 1 is required. In the case of Junction 2 the projected increase in traffic for all three years exceeds 5% meaning further assessment is required.

10.9.3 Junction Modelling (TRANSYST) assesses the Degree of Saturation Percentage (DOS) and queue length on the road network. The assessment highlights that Junction 2 is to be subject to a new junction layout. The modelling for the opening year without the development indicates the junction will not operate within capacity during AM (108% DOS) and within capacity during the PM peak (86% DOS) but will operate within capacity for both AM (99% DOS) and PM peaks (98% DOS). The modelling for the design year without the development indicates the junction will not operate within capacity during AM (106% DOS) and within capacity during the PM peak (87% DOS) but will operate within capacity for both AM (99% DOS) and PM (98% DOS) peaks with the development with a DOS of 99%. The modelling for the design year 2039 without the development indicates the junction will not operate within capacity during the AM peak (108% DOS) and within capacity during the PM (88% DOS) peak but will operate slightly above capacity for the AM peak (101% DOS) and within capacity for the PM (92% DOS). The reason given for the reduction in DOS% with the inclusion of trips generated by the proposed development is due to the phase timings being optimised by the software reducing the number of approaches operating above capacity. The applicants' conclusion is that the road network will operate within capacity for the opening year and subsequent design years.

10.9.4 I am satisfied that the TTA is of sufficient scope and detail to reach a conclusion regarding traffic impact. I am satisfied that the assessment demonstrates that the proposal would be satisfactory in the context of traffic impact on the local road network. I would consider that an important factor to consider is also the fact the site is an accessible location in terms of being within an established District Centre (Stillorgan), local employment and services as well as being well served by high

frequency and high-quality public transport due to proximity to the N11 transport corridor.

10.9.5 CE Report Comment: The CE report raises no concerns regarding overall traffic impact but does raise concerns regarding car parking levels with it recommend that an increase in parking is provided.

10.9.6 Conclusion of Traffic Impact: I am satisfied based on the nature of use and its location relative to local services and the availability of accessible public transport infrastructure that the level of traffic likely to be generated would not be significant. I am satisfied that the entrance layout would be acceptable in the context of traffic safety providing for sufficient sightlines.

10.9.7 Car Parking: The proposal provides 120 car parking spaces including 119 spaces at basement level and 1 space at surface level. The third-party observations raise concerns regarding the number of car parking spaces, which they consider insufficient and the potential for overspill of car parking onto the surrounding residential areas. The site is in parking Zone 2 in context of current Development Plan 2022-2028 policy and Table 12.5 sets out parking standards for residential and the mix of other uses proposed on site. The parking requirements for residential development under Table 12.5 equate to 385 spaces for the residential component (standard) and 34 spaces for the other uses (maximum). The proposal provides just over 28% of these standards with the Development Plan allowing for consideration of locational context in terms of assessing parking levels. I am satisfied that the location of the site meets the criteria under Section 12.4.5.2 of the Development Plan. I would also refer to SPPR3 of the Sustainable Residential Development and Compact Settlement guidelines where in urban neighbourhoods “car-parking provision should be minimised, substantially reduced or wholly eliminated”.

10.9.8 I consider that in this this instance given the location of the proposal and the nature of use that a reduced level of parking is acceptable, and the provision 120 no. spaces would be acceptable, and it is essential to point out the fact that development of this scale and nature cannot be facilitated with car parking for every apartment unit to achieve sustainable development objectives. In relation of overspill of parking, I would note that there is parking control within the immediate vicinity of the site with parking along The Hill subject to pay and display. I would be satisfied that the residential areas are sufficiently removed from the site and taken in conjunction with the accessibility of the location, the likelihood of overspill of car parking into adjoining residential areas is remote.

10.9.9 CE Report Comment: The CE report raises concerns about the levels of car parking with recommendations that the scheme be altered to provide at 0.5 spaces per unit and suggesting that an additional level could be provided for each basement car park. The provision of additional disabled access spaces at surface level is also recommended.

10.9.10 Conclusion on Car Parking: The proposal provides for 120 no. parking spaces. Development Plan 2022-2028 policy identifies a parking requirement of 419 spaces (Table 12.5). I would consider that based on its locational context within a major urban District Centre and proximity to an existing public transport corridor (N11), there is justification for less than the Development Plan standard as well as noting that provision of the Development Plan standards would curtail the efficient development of the site. In relation to the suggested amendments in the CE report, the provision of additional basement levels would be an inappropriate alteration to be specified by way of condition if the Board are of the view that the level of parking provided is insufficient. I would consider that the suggested amendment for two additional accessible spaces on the eastern side of the Hill should be applied by way of condition in the event of a grant of permission.

10.9.11 Bicycle Parking/cycling infrastructure: The proposal entails the provision of 866 no. bicycle parking spaces, this consists of 836 long stay spaces located in the 2 no. basements and 30 short stay spaces distributed through the development at surface level. Current Development Plan (2022-2028) requirements refer to standards under the Council's publication, 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (Table 4.1). The proposed development has a cycle parking requirement of 452 spaces (75 short stay and 377 long stay). Based on the Apartment Guidelines (2020 and subsequent updated versions) the recommended standard is 538 long stay spaces and 189 short stay spaces. Cycle parking provision is well in excess of Development Plan and Apartment Guidelines standards in term of overall quantity of long stay resident parking. The level of short stay/visitor parking in comparison to long stay would appear be low and lower than Development Plan and Apartment Guidelines standards. I would consider that this could be addressed by way of condition requiring an increase in short stay cycle parking at surface level.

10.9.12 CE Report Comment: The CE Report raises no concerns regarding the level of cycle parking spaces, however raises concerns regarding the accessibility and type of cycle space provided. It is recommended that segregated access be provided for cyclists and increased space and accessibility for bicycle storage in addition to provision of Sheffield stands for 50% of the residents' space instead of stacking and provision of parking for cargo bikes as well as provision for e-bikes. Permeability through the site between the Hill and the N11 is also raised with 24-hour access recommended.

10.9.13 Conclusion: The proposed development provides sufficient cycle parking spaces in terms of overall quantity. I would however consider that the level of short-stay parking is low in level and below current Development Plan requirements. Should the Board be minded to grant permission, I would recommend a condition requiring additional short-stay cycle parking at surface level. As noted, the level of long stay cycle parking (833) is well in excess of Development Plan and Apartment Guidelines meaning there is sufficient space provided to allow for reduction in level of spaces to improve quality, accessibility and provision for cargo and e-bikes as recommended

by the CE report and still meet Development Plan standards. I would consider an appropriate condition would address this matter.

#### 10.9.14 Integration with Bus Connects and Stillorgan Village Area Movement Framework

Plan: The CE report raises concerns regarding the integration with future proposals including the Bus Connects scheme along the N11 and the improvements to the public realm being provided under the Stillorgan Village Area Movement Framework. I have examined the drawings for the Bus Connects proposal for the section of the N11 adjoining the site (drawing attached) and would consider that the proposal would not impact delivery of such with the area subject to works outside of the application site. The Stillorgan Village Area Movement Framework (SVAMFP) is strategy for improvement of the layout of the roads in the area around the District Centre and is included as an Appendix of the Stillorgan Local Area Plan 2018. The applicants' Traffic and Transport report outlines the preferred options under the SVAMFP and details of consultation with the Roads Department and the requirements to facilitate such. The applicants note that they are providing the upgrades to public road network in compliance with SVAMFP and detail the work in the public realm that are within the site boundary.

#### 10.9.15 CE Report Comment. Concern expressed regarding integration with Bus Connects proposal along the N11 and the Stillorgan Village Area Movement Framework Plan.

#### 10.9.16 I have examined both the approved Bus Connects proposals for the N11 (layout for section adjoining site attached) and the Stillorgan Village Area Movement Framework Plan (SVAMFP). I am satisfied that the applicants design has regard to both and would not conflict with delivery of either scheme.

#### 10.10 Drainage Infrastructure/Flooding:

10.10.1 The proposal entails connection to existing water supply, foul drainage network and surface water drainage network with details provided in the submitted Engineering Assessment Report. Foul water drainage is to be to the existing foul water sewers in the area with an existing combined sewer traversing the site to be diverted. Surface water drainage is to be to an existing surface water sewer/culvert that discharges to the Priory Stream to the east of the N11. The development requires that the existing surface water sewer be diverted to another location on site. Surface water drainage is to be drained via gravity to the diverted surface water sewer/culvert and restricted in rate with excess storm water stored in an attenuation tank (storage up to 1 in 100-year storm event including a 10% allowance for climate change). Sustainable Urban Drainage Systems are proposed to aid stormwater management include porous surfacing, green roofs, rainwater harvesting, water butts, tree pits, filter drains and hydrobrake and attenuation tank. Water supply entails connection to existing watermains in the area.

10.10.2 Uisce Eireann have issued a confirmation of feasibility and Statement of Design Acceptance with both included as appendices of the submitted Engineering Assessment Report. Water connection is feasible subject to upgrades (140m network extensions in the public domain) and wastewater connection feasible without upgrades by Uisce Eireann.

10.10.3 The application is accompanied by a Flood Risk Assessment Report (FRA). There are two watercourses in the vicinity, the Carysfort-Maretimo River 750m southeast/east of the site and the Priory Stream 200m to the north of the site. Historical flood events in the area include a number of flood incidences concerning the Carysfort-Maretimo stream and an isolated occurrence to the west of the site. The assessment uses the Greater Dublin Strategic Drainage Study (GDSDS), the Carysfort-Maretimo Stream Improvement Scheme, the OPW Preliminary Flood Risk Analysis (PFRA) and the OPW eastern CFRAM Study to identify potential flood risk. The PFRA (pluvial) mapping indicates a risk of pluvial flooding of the site during 1% AEP and 0.1% AEP events. The CFRAM (fluvial) mapping shows an overland flow route that allows flood water from the Carysfort-Maretimo Stream ponding on site for 1% AEP and 0.1% AEP

events. The assessment indicates that both the PFRA and CRAM mapping are insufficient in detail to represent flood risk for the site for the purpose of a site-specific flood risk assessment and a site-specific model is required.

10.10.4 Site-specific hydraulic modelling indicate that the site is impacted by overland flow from Brewery Road and part of the site is within Flood Zone B and A for fluvial flooding to a more conservative extent than the CFRAM mapping for the site. Mitigation measures have been developed in response to flood risk. The site layout includes open space to provide flood storage. The design and layout provide for an unobstructed flow path across the site (between the Hill and the N11) to maintain pre-development conditions. The proposal will result in an increase in available flood storage on-site for both 0.1% and 1.0% AEP events and offset any loss of floodplain because of the development. The finished floor levels in each building are provided to allow sufficient freeboard above predicted flood levels. The vehicular entrances to the basements are at a level sufficiently above predicted flood levels as well as ventilation vents to such. Building 5 commercial floor space at ground level is at a finished floor level with regard to flood levels in the event of 0.1% AEP event. In the event of a flood event safe access and egress is maintained including for emergency response vehicles. The proposal include comprehensive drainage design including stormwater attenuation separated into two facilities, attenuation tanks with storage volume for a 1 in 100 year storm event plus 10% climate change factor, green roofs, water butts, finished floor levels over 1m from flood water levels for 1% and 0.1% AEP events and in event of surcharge of drainage system overflow will spill into the green area and away from buildings and site access points.

10.10.5 Residual risks after implementation of mitigation include a blockage at the Carysfort-Maretimo Culvert. The proposed mitigation measures included within the development are sufficient in the case of a blockage of the culverted section of Carysfort-Maretimo. Climate change impacts are also identified as residual risk. Climate change models

have been completed with finished floor levels and wider site levels designed to have account of such.

10.10.6 A justification test has been carried out based on the location of the development in an area at flood risk. The justification test sets out how the site is zoned for development (District Centre). The proposed development will not increase flood risk elsewhere. The proposal includes appropriate measures to minimise flood risk. Site-specific mitigation measures to ensure that there is no increase in residual flood risk considering climate change and sewer blockage. The proposal meets the criteria of the justification test in a manner that provides a mixed-use development meeting the typical standards for such. It is determined that the proposal meets the criteria of the justification test under the Planning System and Flood Risk Management.

10.10.7 CE Report Comment: The CE report refers to the Drainage Report, which accepts the conclusion of the Flood Risk Assessment and consider the proposal is consistent with development plan policy.

10.10.8 The application is accompanied by a Flood Risk Assessment carried out in accordance with the Planning System and Flood Risk Management Guidelines. Based on the information submitted, the application site is not at risk of coastal, groundwater flooding. There is some risk of pluvial flooding identified; however, the proposal is to be subject to a comprehensive drainage proposal including Sustainable Urban Drainage measures designed to deal with storm events. There is the risk of fluvial flooding associated with overflow of the Carysfort-Maretimo stream. Parts of the site are located with Flood Zones B and A in terms of fluvial flooding. I am satisfied that the overall design takes account of this status in terms of its design and proposes sufficient mitigation measures to deal with flood risk including residual risk. I am satisfied that the proposed development passes a justification test in accordance with



the Guidelines. In this regard the proposed development would be satisfactory in terms of flood risk.

#### 10.11 Biodiversity/Ecology Impact:

10.11.1 The application site was formerly occupied by a number of commercial premises including a vehicle sales showroom and workshop as well as a two-storey structure housing restaurant use with associated car parking and hardstanding areas. These structures have been demolished and the site cleared. There is some existing vegetation on the site with the bulk of such located along the N11 road frontage and to a lesser extent along the The Hill road frontage. The application is accompanied by a Arboricultural Report and an Ecological Impact Assessment. The observations raise the issue of impact on overflying birds, particularly the Light-bellied Brent Goose, which is a qualifying interest of the nearest Natura 2000 site.

10.11.2 The Arboricultural Report identifies 27 no. trees on site and 1 tree group. In terms of quality and condition there are no Category A trees, 8 Category B trees, 14 Category C trees and 6 Category U trees. It is proposed to retain 4 of the Category B trees and 9 of Category C trees with loss of 16 trees in total. The trees to be retained are mainly located along the N11 road frontage (8 no. trees) with some trees located along the Lower Kilmacud Road (3 no. trees) and The Hill (3 no. trees).

10.11.3 In terms of habitats the site is mainly Recolonising Bare Ground (ED3) and Building and Artificial Surfaces (BL3). There is a section of Treelines (WL2) along the northeastern boundary and small sections of Amenity Grassland (GA2). The various surveys carried out identified that the site has no rare plant species of conservation value. There are no watercourses on site with no amphibians identified on site and no mammals or terrestrial mammals of conservation importance noted on site. Bat surveys on site indicate there is no evidence of current or past bat roost on site and

there are no features that would provide roosting potential. The site is brightly lit with no foraging activity detected on site. In relation to bird species none of conservation value were noted with species identified including wren, robin, blackbird and woodpigeon. The site is not an ex-situ habitat for the qualifying interest of any Natura 2000 site, and particularly the Light-bellied Brent goose, which is a QI of the South Dublin Bay and Tolka River SPA, which is 1.9km away. The site is brownfield site and would not be a suitable foraging area. In relation to overflying birds, there is no evidence to suggest that the site is within the flightpath of the Light-bellied Brent Goose with the site not an ex-situ habitat for such.

10.11.4 Impact on existing biodiversity/ecology is classified as negligible adverse/neutral/not significant/permanent on the basis that the site is of low value in terms habitats or species of conservation value. A number of mitigation measures are proposed including construction management measures to prevent importation of invasive species, lighting design to prevent light overspill, wildlife sensitive lighting specification, landscaping scheme including additional planting and limitation of soil disturbance during construction. I am satisfied that the application site is an urban site that is not of significant or high-level ecological value.

10.11.5 CE report Comment: The CE report acknowledges that fact that an Ecological Impact Assessment was submitted and raise no concerns regarding such.

10.11.6 Conclusion on ecological impact: I am satisfied that it has been demonstrated that the site is not of high ecological value and is limited in terms of habitat for flora and fauna site. I am satisfied that the range of mitigation measures proposed are sufficient to ensure no significant impact on any species or habitats of conservation value.

10.12 Other Issues:

10.12.1 One of the submissions questions the adequacy of information submitted in the context of EIA screening and AA screening in addition to the Boards competence to carry out an assessment of these issues. The Board has a role as the competent authority in relation to these matters. I would refer to the following section of this report in which both EIA screening and AA screening subsequently Appropriate Assessment is carried out and I consider that sufficient information is available to reach conclusions in regard to both matters.

10.12.2 CE Report Comment: The CE report does not mention these issues in its assessment.

10.12.3 Conclusion: I am satisfied none of these issues raised would preclude the development from being granted permission.

#### 10.13 Material Contravention:

10.13.1 The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 (in force at time of lodgement), the Dun Laoghaire Rathdown County Development Plan 2022-2028 (adopted at the time of lodgement but not in effect) and the Stillorgan Village Local Area Plan 2018 (currently in effect) in relation to a number of issues. The 2016 County Development Plan has since been superseded by the Dun Laoghaire Rathdown County Development Plan 2022-2028. The statement is summarised above (Section 6.7).

10.13.2 Building Height: This section should be read in conjunction with Section 10.6 of this assessment. Building height of up to 9-storeys is proposed at the junction of the Lower Kilmacud Road and Stillorgan Road (N11). There are structures of varying height located along the three road frontages defining the site stepping up from 3, 5, 6, 7 and 8 storeys to the 9 storey element. In this case, the site falls under Policy Objective BHS2-Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan. The site is located within the boundary of the Stillorgan Local Area

Plan 2018, which is still in force. Section 4.5.3.2 of the LAP outlines a Site Development Framework for this site with building height identified to be a benchmark height of five-storeys across the site, with a landmark building of up to nine storeys at the corner of the N11/Lower Kilmacud Road Junction. The transition between the landmark height (9 storeys) and the benchmark height (5 storeys) must be designed to ensure that excessive massing or bulk in the overall design does not detract from the 'landmark' nature of the nine-storey element. The benchmark height of 5-storeys is exceeded over the frontage of the site transitioning to the 9-storey element, with structures of 7 and 8-storeys along the N11 frontage, and structures of 6 and 7 storeys along both The Hill and Lower Kilmacud Road.

10.13.3 Appendix 5 of the Development Plan is the Building Height Strategy (BHS), which has regard to the National Planning Framework, The Building Height Guidelines. The site is in an area covered by Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan). The BHS acknowledges the policies of the Stillorgan LAP, and particularly the benchmark height under Section 4.5.3.2. Policy under the BHS does state that “there may be instances, however, where an argument can be made for increased height within the plan area and in those instances any such proposals would have to be assessed in accordance with any new performance criteria as outlined in the County Development Plan and SPPR3”.

10.13.4 The applicant in their Statement of Consistency have outlined how they consider the proposal complies with the performance criteria under the Building Height Strategy (Table 15.1). I have carried out my own assessment of building height in the context of these performance criteria and consider that the building height proposed is acceptable in the context of these criteria under Section 10.6 above. Having regard to the fact that current Development Plan policy specifically allows consideration for increased height over the specified height for the site subject to compliance with specified performance criteria, the provision of an increased height above the

benchmark height of 5 storeys for structures transitioning to the 9 storey element at the junction of the Lower Kilmacud Road and Stillorgan Road would not constitute a material contravention of current Development Plan (2022-2028) policy or the Stillorgan Local Area Plan policy by virtue of the provisions of the Development Plan.

10.13.5 Plot ratio: Under section 4.5.3.2 of the Stillorgan LAP (Blakes/Esmonde-Site Development Framework) an indicative plot ratio of 1:2.5 is specified. The plot ratio of the proposal is 1.2.7 gross and 1.2.3 net. The plot ratio standard is an indicative figure and is not specified as being a maximum standard. In this regard, I do not consider that a plot ratio higher than the indicative figure constitutes a material contravention of Local Area Plan policy.

10.13.6 Design Standards of the 2022-2028 Development Plan:

10.13.7 Separation Distances: Section 12.3.5.2 states that “a minimum clearance distance of circa 22 metres in general, is required, between opposing windows in the case of apartments up to three storeys in height”. It is specified that reduced separation distances may be acceptable and in cases where they are not met a daylight availability analysis shall be submitted. In this case separation distances of 22m are provided in general with some instances of lesser separation distance between blocks. In this case they are not directly opposing windows, but angled facades and design mechanisms applied to prevent overlooking. The proposal is also accompanied by a Daylight, Sunlight and Overshadowing Study. I am of the view that Development policy is stated in a manner that minimum separation distances are not mandatory and that the flexibility exists to allow for reduced separation distances. In this regard, I do not consider that the proposal, which does have separation distances of less than 22m between the closest points of some blocks would constitute a material contravention of Development Plan policy.

10.13.8 Unit Mix: Section 12.3.3.1 and Table 12.1 of the current Development Plan (2022-2028) specifies that for apartment scheme of 50+ units...

Up to 80% studio, one and two bed unit 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 proposed development has a unit mix of 21 studios (5.6%), 189 one bed (50.1%), 152 two bed (42.2%) and 21 three bed units (2.1%). This unit mix would not meet the unit mix specified under Section 12.3.3.1 and Table 12.3. I would note that Section 12.3.6 of the current Development Plan in relation to Build to-Rent development specifies that “all proposed BTR accommodation must comply with SPPR 7 and SPPR 8 as set out within the Design Standards for New Apartments, 2020 (and any amending SPPR as appropriate)”. Under SPPR 8 of the 2020 Apartment Guidelines “no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise”. Section 12.3.6 of the Development Plan does state that where derogations in standards including standards relating to unit mix, open space or, car parking and storage are availed of a condition should be attached to any grant of permission to state that planning permission must be sought for a change of tenure to another tenure model following the period described in the covenant.

10.13.9 The current Development Plan policy acknowledges that Build to Rent development shall comply with SPPR 7 and 8 of the 2020 Apartment Guidelines, where no restriction on unit mix applies. Section 12.3.6 of the Development Plan also acknowledges that a derogation in unit mix among others is possible subject to appropriate condition regarding future change in tenure model. In this regard, I am satisfied that the proposed units mix would not constitute a material contravention of current Development Plan policy.

10.13.10 Open Space Provision: Current Development Plan policy under Section 12.8.3.1 and Table 12.8 specifies that public open space be provided at a rate of 15% of site

area for residential development in the existing built-up area. The proposal provides for public space of 1,177sqm equating of 10% of the site area. Development Plan policy does acknowledge that in certain instances it may not be possible to provide the prescribed standard and that in high density urban schemes and/or smaller urban infill schemes may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended Provision is given for a development contribution under Section 48 in lieu of public open space.

10.13.11 In this case public open space is provided on site (10% of site area) along with communal open space, which is in excess of the recommended standards for such under the Apartment Guidelines. Development Plan policy does provide instances where public open space is not provided or in shortfall. I would consider that the provision of less than 15% of the site area as public open would not constitute a material contravention of Development Plan policy, however, such is subject to application of a development contribution of development contribution under Section 48 in lieu of provision of the required percentage (15%) of public open space. I would refer to Section 10.8 relating to assessment of open space within the development, where I recommend that in the event of grant of permission a Section 48 Development Contribution be applied due to a shortfall in the required percentage of public open space under the Development Plan. Subject to such the proposal would not constitute a material contravention of Development Plan policy.

10.13.12 Car Parking: The site is in parking Zone 2 in the context of Development Plan policy and under Table 12.5 sets out the parking standards for residential and the mix of other uses proposed on site. Parking requirements for residential under Table 12.5 equate to 385 spaces for the residential component (standard) and 34 spaces for the other uses (maximum). The proposal provides just over 28% (120) of these standards with the Development Plan allowing for consideration of locational context in terms of

assessing parking levels. I am satisfied that the location of the site meets the criteria under Section 12.4.5.2 of the Development Plan for a reduced standard, which is allowed for under Development Plan policy. In this regard, the proposal to provide less than the parking standards specified under Table 12.5 of the Development Plan would not constitute a material contravention of Development Plan policy.

10.13.13 The material contravention statement also includes details of potential material contraventions of the 2016-2022 Development Plan regarding building height, plot ratio and car parking standards. This plan has been superseded by the 2022-2028 Development Plan and I have already outlined how the proposed development does not contravene Development Plan policy of the current Dun Laoghaire Rathdown County Development Plan 2022-2028 in regard to building height, plot ratio or car parking.

10.13.14 CE report Comment: The CE Report does not identify any instances where it is considered that the proposal would materially contravene Development Plan or Local Area Plan policy.

10.13.15 Conclusion on Material Contravention: I am of the view what the proposal does not constitute a material contravention of current Development Plan policy under the Dun Laoghaire Rathdown County Development Plan 2022-2028 or the Stillorgan Local Area Plan 2018.

## **11.0 Environmental Impact Assessment Screening**

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

11.1.1 This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and



Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

11.1.2 Item 10(b)(i), (ii) and (iv) 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 EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- Construction of a carpark providing more than 400 spaces, other than a carpark provided as part of, and incidental to the primary purpose of, a development.
- 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. A business district is defined as ‘a district within a city or town in which the predominant land use is retail or commercial use’.

11.1.3 Item (15) (b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: “Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

11.1.4 The proposed development is proposed is for a mixed-use development consisting of 377 no. ‘Built-to-rent’ apartments, community sports hall, 5 no. restaurant/café units, crèche and ancillary resident support facilities on a site with an area of 1.41 hectares. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i), (ii) and (iv) of the Planning and Development Regulations 2001 as amended.

11.1.5 The application was accompanied by an EIA Screening Report which includes the information set out in Schedule 7A to the Planning and Development Regulations 2001 as amended and I have had regard to same. The report states that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size, number of residential units (377 apartment units) and the concludes that the proposal is unlikely to give rise to significant environmental effects, so an EIAR is not required.

11.1.6 Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

11.1.7 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. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Statement of Consistency
- Townscape and Visual Assessment

- Photomontages
- Engineering Assessment Report
- Flood Risk Assessment
- Ecological Impact Assessment
- Natura Impact Statement
- Construction Management Plan
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Noise Assessment
- Commercial Energy & Sustainability Statement
- Residential Energy Statement
- Telecommunication Report

11.1.8 In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a 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 and are listed in Section 6 of the EIA screening report. The documents are summarised as follows:

Relevant Directives	Comment	Document
Directive 92/43/EEC, The Habitats Directive		Natura Impact Assessment Ecological Impact Statement

Directive 2000/60/EC, EU Water Framework Directive		Construct & Demolition Waste Management Plan (CDWMP)  Construction Management Plan (CMP)  Flood Risk Assessment (FRA)  Engineering Assessment Report  Hydrological & Hydrogeological Qualitative Risk Assessment  Ecological Impact Statement
Directive 2001/42/EC, SEA Directive		Environmental Impact Assessment Screening Report
Directive 2002/49/EC, Environmental Noise Directive		CMP  Dublin Agglomeration Environmental Noise Action Plan  Noise and Vibration Impact Assessment
Directive 2008/50/EC, Ambient Air Quality		CDWMP  CMP  Traffic & Transportation Assessment

		Draft Dublin Regional Air Quality Plan Support Nitrogen Dioxide Levels in Dublin Region Air Quality and Climate Impact Assessment
Directive 2007/60/EC, Management of flood risks		FRA
Directive (EU) 2018/850, Landfill waste		CDWMP Operational Waste management Plan (OWMP) CMP

11.1.9 The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

11.1.10 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 Item 10(b)(i), (ii) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended);

- (b) the location of the development on land zoned Objective DC – “to protect, provide for an or improve mixed-use district centre facilities.’
- (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),

11.1.11 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 a Natura Impact Statement (NIS) as part of the application. The AA screening report part of the NIS concluded that in the absence of appropriate mitigation, the proposed development had the potential to significantly affect two European Sites, namely the South Dublin Bay SAC and the South Dublin Bay & River Tolka Estuary SPA. 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 Applicant's Stage 1 – Appropriate Assessment Screening:

12.2.1 The applicant Natura Impact Statement includes an appropriate assessment screening report. I have had regard to the contents of same.

12.2.2 The subject lands are described on Page 5 of this report. The site is not directly connected with, or necessary to the management of a Natura 2000 sites. The zone of influence of the proposed project would be limited to the outline of the site during the construction phase. The proposed development is therefore subject to the provisions of Article 6(3).

12.2.3 The screening report identifies 14 European Sites within the potential zone of influence, these are as follows:

Name	Site Code	Distance from Site
South Dublin Bay SAC	000210	2km
North Dublin Bay SAC	000206	6.9km
Rockabil to Dalkey Island SAC	003000	7.0km
Wicklow Mountain SAC	002122	8.2km
Knocksink Woods SAC	000725	8.5km
Ballyman Glen SAC	000713	9.1km
Howth Head SAC	000202	10.9km
Glenasmole Valley SAC	001209	11.8km
Baldoyle Bay SPA	000199	12.6km

Bray Head SAC	000714	12.7km
Irelands Eye SAC	002193	15.2km
South Dublin Bay and River Tolka Estuary SPA	004024	1.9km
North Bull Island SPA	004006	6.9km
Dalkey Island SPA	004172	6.9km
Wicklow Mountains SPA	004040	8.3km
Howth Head Coast SPA	004113	12.5km
Baldoyle Bay SPA	004016	12.6km
Irelands Eye SPA	004117	14.8km

The North West Irish Sea SPA (site code 004236), which is 6km from the site was not considered in the submitted AA Screening Report, because it was not designated until 2023.

Connectivity-Source-Pathway-Receptor:

12.2.4 The submitted AA Screening Report makes full consideration of the Connectivity-Source-Pathway-Receptor model for each of the identified sites. two of the sites were identified as having some connection.

Site	Source-pathway-connection
South Dublin Bay SAC	Hydrological connection via surface water drainage to Priory Stream that discharges to Dublin Bay and foul water connection to Ringsend WWTP. Risk of flooding in the area with risk of



	pollutants discharged to watercourses in the area.
South Dublin Bay and River Tolka Estuary SPA	Hydrological connection via surface water drainage to Priory Stream that discharges to Dublin Bay and foul water connection to Ringsend WWTP. Risk of flooding in the area with risk of pollutants discharged to watercourses in the area.

12.2.5 No direct adverse effects are anticipated with no direct loss, fragmentation or disturbance of Annex I habitats or Annex II species listed as qualifying interest of the Natura 2000 sites.

12.2.6 In terms of indirect effects the site has a hydrological connection to nearby Natura 2000 sites through the surface water drainage to the Priory Stream that discharges to Dublin Bay, foul sewerage discharges to the Ringsend WWTP and the fact the area is at risk of flooding with the possibility of discharge of pollutants to watercourses in the area. The applicants conclude on a precautionary basis that significant effects on the two Natura sites identified without appropriate mitigation cannot be ruled out.

12.2.7 The applicant reviewed other plans and projects in the area and does not envisage that interaction with such would give rise to any cumulative impacts that would adversely affect any Natura 2000 site. It is noted that any proposal which is subject to planning permission is subject to consideration of appropriate assessment.

12.2.8 Applicant Screening Conclusion: It is concluded that there is potential for the development to give rise to any significant effects on any designated Natura 2000 sites and a Stage 2 Appropriate Assessment is required in regard to the potential

impacts on water quality due to surface water runoff, foul sewerage discharge and potential impact of flooding for the following Natura 2000 sites...

South Dublin Bay SAC

South Dublin Bay and River Tolka Estuary SPA

### 12.3 Applicants Appropriate Assessment:

12.3.1 The applicants' screening conclusion is that there is potential for significant effects on the habitats and species that make up the qualifying interests of the following designated sites.

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

The effects relate to the contamination of surface water runoff from construction, foul water discharge to Ringsend WWTP and potential for flooding in the area to discharge pollutants to watercourses in the area that are connected to Dublin Bay.

12.3.2 In relation to in-combination effects it is stated that potential emissions are only surface water run-off during construction and are potentially small in scale and short term, with low potential for in-combination effects with other plans projects.

12.3.3 To avoid significant effects a number of mitigation measures are proposed (listed in Table 10 of the NIS). For surface water contamination construction management measures are proposed to manage waste, excavation, fuelling, spillages, provision of silt traps, control of oil and fuel storage, and management of plant equipment. For the operational phase and potential flood events mitigation measures will be in place to ensure discharges for the site will comply with Water Pollution Acts.

12.3.4 It is concluded that subject to implementation of the mitigation measures outlined that the proposed development will be unlikely to have significant effects on South

Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA either individually or in-combination with other plans and projects.

#### 12.4 Appropriate Assessment Screening:

12.4.1 Description of the project: I have considered the proposal in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located in the existing built-up area and is occupied by a warehouse building and open yard area. The nearest Natura 2000 site is 1.9km away (South Dublin Bay and River Tolka Estuary SPA). The proposed development comprises the provision of 377 apart units, Community Sports Hall, 5 no. restaurants/cafes, crèche, office, ancillary residents support facilities/services and associated site works.

12.4.2 Potential impact mechanisms from the project: The proposal has no direct impact on any designated Natura 2000 site in terms of habitat loss or deterioration and species disturbance or mortality with the nearest site located 1.9km away. In terms of indirect impacts, the development would have no impact in terms of disturbance (noise, emissions, lighting, construction impact) of habitats or species of qualifying interests any Natura 2000 site due to distance between the site and any designated Natura 2000 site. The nearest Natura 2000 sites is the South Dublin Bay and River Tolka Estuary SPA, the qualifying interests of such consist of 14 bird species. The site is not an ex-situ habitat for the species that are qualifying interests as it is brownfield urban site in use as an open yard with warehouse structure and there are no grassland habitats on site.

12.4.3 In terms of hydrological connections, surface water drainage will be to existing sewer which discharges to the Priory stream with ultimate discharge of the network to the Dublin Bay/Irish Sea. There is possibility of indirect effects through discharges of sediments/pollutants to surface water during the construction and operational phase as well due to flooding impacting habitats and species that are dependent on water quality. There is unlikely to be any indirect impact on water quality through foul water drainage with such draining into the Ringsend Wastewater Treatment Plant, which is

required to operate under EPA licence and meet environmental standards. Upgrade of Ringsend WWTP 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.

12.4.4 The applicant AA screening did not include North West Irish Sea SPA (site code 004236) because this European site did not exist at the time the applicant's AA Screening Report. I am satisfied that this designated site is outside of the zone of influence of the project with no direct connections to this site and a weak hydrological connection given its location relative to Dublin Bay and impact of dilution factor. The application site is not an ex-situ habitat for any of the species that are qualifying interest of the North West Irish Sea SPA. I would consider that the sites within the zone of the project are limited to the following.

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

12.4.5 European Sites at risk:

Table 1 European Sites at risk from impacts of the proposed project [example]			
Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Effect A Deterioration in water quality due to discharge of sediment/pollutants to surface water during construction phase or as a result of flooding.	Discharge to surface water system with subsequent discharge to Irish Sea impacting water quality and habitats identified as qualifying interests.	South Dublin Bay SAC (000210)  Conservation Objectives:  To maintain the favourable conservation condition of the qualifying interests.	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]

Effect A Deterioration in water quality due to discharge of sediment/pollutants to surface water during construction phase or as a result of flooding.	Discharge to surface water system with subsequent discharge to Irish Sea impacting water quality and habitats identified as qualifying interests.	South Dublin Bay and River Tolka Estuary SPA (004024)  Conservation Objectives:  To maintain the favourable conservation condition of the qualifying interests.	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> ) [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]  Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]  Wetland and Waterbirds [A999]
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#### 12.4.6. Likely significant effects on the European site(s) 'alone':

**Table 2: Could the project undermine the conservation objectives 'alone'**

European Site and qualifying feature	Conservation objective (summary) [provide link/ refer back to AA Screening Report]	Could the conservation objectives be undermined (Y/N)?			
		Effect A	Effect B	Effect C	Effect D
South Dublin Bay SAC					
<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	To maintain the favourable conservation condition of the qualifying interests.	Y			
South Dublin Bay and River Tolka Estuary SPA					
<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p>	To maintain the favourable conservation condition of the qualifying interests.	Y			

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]					
Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]					
Wetland and Waterbirds [A999]					

12.4.7 The proposed development alone is unlikely to undermine the conservation objectives of the South Dublin Bay SAC or South Dublin Bay and River Tolka Estuary SPA due to discharge of sediments/pollutants to surface water during construction as standard construction measures will prevent pollution risks and provision Sustainable Urban Drainage Systems (SuDs) as proposed will prevent discharge of sediments and pollutants to surface water during the construction and operational stage. Notwithstanding such in event such measures fail, the hydrological connection is indirect and the likelihood of significant effects on qualifying interests (habitats and species) can be ruled out on the basis of dilution factor. Having regard to this conclusion I would also state no other aquatic based Natura 2000 site located in Dublin Bay and the Irish Sea would be at risk as such are located at further distance from the site and I do not consider such are within the zone of influence of the project. I would acknowledge that the applicants' screening assessment did not rule out significant effects in terms of hydrological connection at construction stage and carried out a Stage 2 Appropriate Assessment in this regard with mitigation measures specified (Table 10 of the NIS). I am satisfied that these are standard construction/operational processes and cannot be considered as

mitigation measures. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. I am satisfied that significant effects on the South Dublin Bay SAC or South Dublin Bay and River Tolka Estuary SPA or any other Natura 2000 site in relation to impact on water quality and significant effects on the quality of aquatic habitats and subsequently on the species dependent on such habitat that are qualifying interests can be ruled out at the screening stage.

12.4.8 The impact of flooding on site has the potential to cause discharge of pollutants to surface water and subsequent discharge to Dublin Bay with potential to impact water quality within the South Dublin Bay SAC and subsequently impact on species dependent on these habitats such as those that are qualifying interests of the South Dublin Bay and River Tolka Estuary SPA.

12.4.9 The observations raise concerns regarding collision risk for the Light-bellied Brent Goose, which is a qualifying interest of the nearest Natura 2000 site (South Dublin Bay and River Tolka Estuary SPA) due height of structures proposed. The site surveys included breeding and wintering bird surveys. The habitats on the development site are 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. There are no such amenity grasslands on the subject site. Breeding bird surveys for the site recorded no species which is a qualifying interest of the SPA's 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 to concerns about impact of building height on the flight paths of the Light-bellied Brent Goose, however bird surveys do not identify such as overflying the site. The survey results submitted indicate that the proposed development site is not important for wintering birds and the qualifying interests of any SPA listed. I do not consider that there is any evidence to come to



the conclusion that the proposal would impact on the flightpaths of overflying birds that are qualifying interests of the nearest Natura 2000 site.

12.4.10 I conclude that the proposed development would not be likely to have significant effects 'alone' on the qualifying interests of the South Dublin Bay SAC or South Dublin Bay and River Tolka Estuary SPA or any other designated Natura 2000 site from effects associated with discharge of sediments/pollutants to surface water during the construction stage and operational phase or from foul water drainage to the Ringsend WWTP, however I cannot rule out significant effects as a result of flooding in the area that may affect the site. I would refer to Section 10.11 of the assessment, which outlines the fact that the site is impacted by both pluvial and fluvial flood risks.

12.4.11 Likely significant effects on the European site(s) 'in-combination with other plans and projects: The nearest development of note is the permitted developments to the north of the site (refer to planning history). I would rule out in-combination effects on the basis that any proposed or permitted developments were subject to AA screening and that such connect to existing drainage infrastructure and are subject to the same construction management measures to prevent discharges of sediments/pollutants to surface water. I conclude that the proposed development would have no likely significant effects in combination with other plans and projects on the qualifying features of any European site(s).

12.4.12 Overall Conclusion- Screening Determination: In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that significant effects cannot be ruled out in relation to South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. It is therefore determined that Appropriate Assessment (stage 2) is required.

## 12.5 Stage 2 – Appropriate Assessment

12.5.1 I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

12.5.2 The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA is subject to appropriate assessment. A description of the sites and their Conservation Objectives and Qualifying Interests are set out in the submitted NIS and have already been outlined in this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website.

12.5.3 Aspects of the Development that could adversely affect the designated site: The only aspect of the development that could impact the conservation objectives of the European sites is the potential for flood events on site to result in the discharge of sediments/pollutants to surface water drainage and have significant effects on the habitats and species that make up the qualifying interest of the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.

12.5.4 Mitigation: Mitigation measures are provided in the NIS and the Flood Risk Assessment (FRA), and these are noted. These refer to the construction and operational phase. These are outlined in Table 10 of the NIS and Section 5 of the FRA, but the main points are summarised here:

- Construction management measures are proposed including manage waste, excavation, fuelling, spillages, provision of silt traps, control of oil and fuel storage, and management of plant equipment. For the operational phase and potential flood events mitigation measures will be in place to ensure discharges for the site will comply with Water Pollution Acts such as interceptors, on-site,

on-site attenuation and implementation of SuDs measures. Mitigation measures for flood risk include providing adequate flood storage retained on site and unobstructed flow paths for overland flow.

12.5.5 Overall, I consider that the proposed mitigation measures are clearly described, and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of designated European site based on the outlined mitigation measures. I am satisfied these measures are sufficient to ensure significant adverse impact on water quality and subsequent significant effects on the habitats and species that make up the qualifying interests of the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short and medium term.

12.5.6 In Combination Effects: There is no likelihood of in-combination effects with other plans and projects subject to the full implementation of mitigation measures outlined in the NIS given the small footprint of the site and the fact that all adjoining sites consist of existing development or development at an advanced stage of construction.

12.5.7 Appropriate Assessment Conclusion: The proposed mixed-use development at Stillorgan has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

12.5.8 Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. Consequently, an Appropriate Assessment was required of the implication of the project on the qualifying features of these sites in light of their Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the

proposed project and there is no reasonable doubt as to the absence of adverse effects.

## **13.0 Recommendation**

I recommend refusal based on reason and considerations set out below.

## **14.0 Reasons and Considerations**

1. Having regard to the relative proximity of the site to an authorised development subject to ref no. ABP-305176-19 providing 232 Built-to-Rent units located the north of the site and within Stillorgan District Centre, in conjunction with the developments authorised under ref no.s ABP-312447-22 and ABP-209860, providing for 102 and 287 Build to Rent units respectively on a site 1km from the application site, all of which have been constructed or are under construction, the cumulative impacts of a further 377 Build to Rent units as proposed in one area would result in an over proliferation of Build to Rent units at this location. The proposal in conjunction with other Build to Rent development in area, 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.

2. The proposed development has a disproportionate and severely overbearing impact on the existing two-storey dwelling (Dun Fanoir) immediately to the southeast of the site of which a portion of its curtilage is included in the application site. This is by virtue of the overall scale and proximity of the development relative to the existing dwelling and is evidenced by the results provided in the submitted Daylight, Sunlight and Overshadowing study, particularly in relation to daylight impact on existing windows. The proposed development would result in the reduction in daylight level to the majority of windows serving the existing dwelling including habitable rooms well

below the recommended standards under the Site Layout Planning for Daylight and Sunlight: A guide to good practice – 2011 (BRE). The proposed development would be seriously injurious to the residential amenities of this existing dwelling and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Colin McBride  
Senior Planning Inspector

12<sup>th</sup> February 2025

## APPENDIX 1 EIA Screening Determination

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference – ABP-313266-22</b>		
<b>Development Summary</b>	Construction of a mixed-use scheme or 377 no. Built-to-Rent BTR apartments, Community Sports Hall along with 5 no., restaurants/cafes, crèche (c. 215sqm), office and ancillary residents support facilities/services.	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	<b>Yes</b>	
<b>2. Has Schedule 7A information been submitted?</b>	<b>Yes</b>	
<b>3. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	<b>NIS</b>
<b>4. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	
<b>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</b>	<b>Yes</b>	<p><b>The following has been submitted with the application:</b></p> <ul style="list-style-type: none"> <li>• <b>An Ecological Impact Assessment (EcIA) which considers the Habitats Directive (92/43/EEC) and the Birds Directive 2009/147/EC).</b></li> <li>• <b>An Engineering Assessment Report and Flood Risk Assessment which have had regard to</b></li> </ul>

		<p>Development Plan policies regarding the Water Framework Directive (2000/60/EC) and the Floods Directive (2007/60/EC).</p> <ul style="list-style-type: none"> <li>• A Construction Management Plan (CMP), Construction Waste Demolition Plan (CWDP) and Operational Waste Management Plan (OWMP) which considers the Waste Framework Directive (2008/98/EC).</li> <li>• A Noise Assessment Report which considers EC Directive 2002/49/EC (END).</li> </ul> <p>SEA and AA was undertaken by the planning authority in respect of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028.</p>	
<b>B. EXAMINATION</b>	Response:  Yes/ No/ Uncertain	<p>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</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	<b>Yes</b>	The proposed development consists of a 6 no. buildings shaped block ranging from three to nine storeys located at the junctions of Lower Kilmacud Road .N11 and Lower Kilmacud Road/The Hill	<b>No</b>

		consisting of 377 no. Built-to-Rent BTR apartments, Community Sports Hall along with 5 no., restaurants/cafes, crèche (c. 215sqm), office and ancillary residents support facilities/services located with the Stillorgan District Centre with development surrounding it a mixture of commercial and residential. The development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.	
<b>1.2</b> Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	<b>Yes</b>	The proposed development will result in the construction of a new development with the existing site subject to excavation and construction for mixed residential and commercial use in accordance with the District Centre zoning of that applies to these lands.	<b>No</b>
<b>1.3</b> 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?	<b>Yes</b>	Construction materials will be typical of such urban development. The loss of natural resources as a result of the redevelopment of the site are not regarded as significant in nature.	<b>No</b>
<b>1.4</b> Will the project involve the use, storage, transport, handling or production of	<b>Yes</b>	Construction activities will require the use of potentially harmful	<b>No</b>



substance which would be harmful to human health or the environment?		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 measures outlined in a CMP, CDWMP and OWMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	<b>No</b>	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances, and will 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 standard measures outlined in a CMP and a CDWMP would satisfactorily mitigate the potential impacts. Operational waste would be managed through a OWMP plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.	<b>No</b>

<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><b>No</b></p>	<p>No significant risks are identified. Operation of standard measures outlined in a CMP will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services and discharge surface waters only after passing through a fuel interceptor and a flow control device to the public network. Surface water drainage will be separate to foul drainage within the site and leaving the site</p>	<p><b>No</b></p>
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p><b>Yes</b></p>	<p>There is potential for the construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts would be suitably mitigated by the operation of standard measures listed in a CMP. Management of the scheme in accordance with a management plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p><b>Yes</b></p>	<p>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 a CMP and a CDWMP would</p>	<p><b>No</b></p>

		satisfactorily address potential risks on human health. No significant operational impacts are anticipated, with water supplies in the area provided via piped services.	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	<b>No</b>	No significant risk is predicted having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. The site is outside the consultation / public safety zones for Seveso / COMAH sites.	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	<b>Yes</b>	Population of this urban area would increase. Additional housing would be provided to meet existing demand in the area and take pressure of existing housing supply 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>	Application is zoned Objective DC and is an infill site in a predominantly residential area. There is no other site in close enough proximity that would result in significant cumulative effects.	<b>No</b>
<b>2. Location of proposed development</b>			
<b>2.1</b> Is the proposed development located on, in,	<b>No</b>	No European sites located on or adjacent	<b>No</b>

<p>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>to the site. A Natura Impact Assessment was provided in support of the application. Subject to the implementation of appropriate mitigation measures, no adverse effects are foreseen.</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><b>No</b></p>	<p>Ecological Impact Assessment classifies site as being of low value in terms of bat activity with a low level of commuting and foraging on site and no bat roosts. Site is an urban site which has been cleared of existing structures and is of low ecological value. The proposed development would not result in significant impacts to protected, important or sensitive species. Mitigation measures in the form of landscaping and implementation of bat friendly artificial lighting as part of the proposed development.</p>	<p><b>No</b></p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or</p>	<p><b>No</b></p>	<p>The site and surrounding area does not have a specific conservation status or</p>	<p><b>No</b></p>

cultural importance that could be affected?		landscape of particular importance and there are no Protected Structures on site or in its immediate vicinity.	
<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?	<b>No</b>	No such features are in this urban location.	<b>No</b>
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwater which could be affected by the project, particularly in terms of their volume and flood risk?	<b>No</b>	The development will implement SUDS measures to control surface water run-off. The site is at risk of flooding (fluvial), however sufficient mitigation measures are proposed to address flood risk. Potential impacts arising from the discharge of surface waters to receiving waters are considered, however, no likely significant effects are anticipated.	<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?	<b>No</b>	Access to and from the site will be via The Hill. No significant contribution to traffic congestion is anticipated from the subject 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?	<b>No</b>	There are no sensitive land uses adjacent to the subject site.	<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?	<b>No</b>	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. Any cumulative traffic impacts that may arise during construction would be subject to a project construction traffic management plan.	<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	<b>No</b>	No transboundary considerations arise	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?	<b>No</b>	No	<b>No</b>
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<input checked="" type="checkbox"/>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	EIAR Required	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
<p>Having regard to</p> <ul style="list-style-type: none"> <li>the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), (ii) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2022;</li> <li>the location of the proposed residential units on lands zoned within the Dun Laoghaire Rathdown County Development Plan 2022-2028 as Objective DC – <i>‘to protect, provide for an or improve mixed-use district centre facilities’</i>;</li> </ul>			

- 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 Management Plan, Operational Waste Management Plan and the Engineering Assessment 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\_\_\_\_\_