



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313281-22**

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#### **Strategic Housing Development**

Demolish two houses, restore protected structure and construct 534 build-to-rent apartments in eight blocks and associated development

#### **Location**

Winterbrook & Barrington Tower,  
Brennanstown Road, Dublin 18

#### **Planning Authority**

Dun Laoghaire-Rathdown County  
Council

#### **Applicant**

Cairn Homes Properties Ltd.

#### **Prescribed Bodies**

An Taisce  
Minister for Housing, Local  
Government and Heritage  
Uisce Éireann  
Transport Infrastructure Ireland

#### **Observers**

Aideen O'Brien

Barry Molloy and David Gee  
Bryan and Jane Evans  
Cathal Duffy  
Con and Anne Culhane  
David McCleane  
Dublin Friends of the Earth  
Elizabeth Pilkington  
Gleb Reys  
Glendruid Dolmen Public Group  
Inland Fisheries Ireland  
Jane Reid  
John Conway and the Louth  
Environmental Group  
Khaled Sarwat  
Lauren O'Flaherty  
Laurence Hill  
Michael O'Brien  
Michelle and Dolores Cullen  
Patrick and Marie Drury Byrne  
Promilla Shaw  
Richard Boyd Barrett and Melisa  
Halpin  
Tim and Niamh Crowley  
Valerie Andrews  
Vivienne Keane

**Date of Site Inspection**

19<sup>th</sup> March 2024

**Inspector**

Colm McLoughlin

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## **1.0 Introduction**

- 1.1. This report provides an assessment of a proposed strategic housing development submitted to An Bord Pleanála under the provisions of section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereinafter referred to as ‘the Act of 2016’).

## **2.0 Site Location and Description**

- 2.1. The application site is situated along Brennanstown Road in the Cabinteely suburb of south county Dublin, approximately 10km southeast of the city centre. It is stated to measure approximately 3.81 hectares and comprises two residential properties known as Winterbrook and Barrington Tower on extensive grounds, the latter of which accommodates a tower or folly structure that is a Protected Structure. The site backs onto the operational Luas green line corridor, with the M50 motorway situated approximately 400m to the southwest and the N11 national road situated 1km to the east. The site also features a 115m-long section of Brennanstown Road. The gardens and grounds of the houses on site feature extensive boundary planting including mature trees and hedgerows, as well as various ornamental planting, decorative elements, outbuildings and wall structures. The houses on site are vacant with security signage, fencing and gates visible along the road and Luas line frontage. Vehicular access to the site is from Brennanstown Road with separate accesses to both properties and a vehicular track running along the eastern side of the site terminating at the southern boundary with a Luas substation building.
- 2.2. Based on the application details there is a 13m gradual fall from the northern boundary to the southern boundary of the site. Bordering to the southern boundary of the site, the Carrickmines river flows east towards Killiney Bay. A wooded area, known as Carrickmines woods, Glendruid or Druid’s Glen, flanks the banks of this river. An access lane to Barrington cemetery, a private burial ground with a mausoleum, follows the eastern boundary of the site. The applicant’s landholding also includes an adjoining property to the west, known as Áras Eibhear, featuring a house on large grounds, as well as a property on the opposite side of Brennanstown Road, known as Appledore, but these properties are not proposed to accommodate housing as part of the subject development.

- 2.3. The immediate area is primarily characterised by single to three-storey detached residential properties on extensive grounds, each of which are individually accessed off a network of public and private roads, including housing in the Brennanstown Vale estate. A more recent development in the immediate area includes Brennanstown Wood, a residential estate featuring a mix of four-storey apartments blocks and two to three-storey houses.

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

- 3.1. The proposed strategic housing development would consist of the following elements:

- demolition and removal of boundary wall along Brennanstown Road and houses known as 'Winterbrook' and 'Barrington Tower', the latter of which is appended to a protected structure that is proposed to be repaired and restored;
- construction of 534 build-to-rent apartments in eight blocks ranging in height from five to ten storeys including lower-ground-floor / basement levels, and comprising 30 studio, 135 one-bedroom, 318 two-bedroom and 51 three-bedroom apartments with private balconies or terraces on all elevations;
- provision of resident support facilities, services and amenities measuring a stated floor area of 1,496sq.m, comprising entertainment rooms, meeting rooms, parcel rooms, management areas, receptions, media rooms, lounges, workspaces, gymnasiums, fitness studio, kitchen and dining area;
- provision of a childcare facility (357sq.m) and a retail unit (337sq.m) to proposed block C/D;
- provision of 419 car, 17 motorcycle and 1,266 cycle parking spaces at lower ground-floor / basement levels and at surface level, including external cycle-shelters;
- provision of all associated site development works, landscaping, boundary treatments, plant areas, waste management areas, bat house (12sq.m) and two electricity substations;

- provision of accesses and road improvement works along Brennanstown Road, including a new junction layout and pedestrian crossing facilities, and provision of a pedestrian access on the southern boundary.

3.2. The following tables set out the key standards for the proposed strategic housing development:

**Table 1.** Stated Development Standards

Site Area (gross / net)	3.81 ha / 3.71ha
No. of units	534
Part V units (%)	53 (10%)
Demolition Gross Floor Area (GFA)	662sq.m
Residential GFA	38,806sq.m
Ancillary residential GFA (substations, stores, amenity areas, tower)	3,223sq.m
Non-residential GFA (% total GFA)	693sq.m (1.6%)
Total GFA	42,722sq.m
Residential Density (net < mixed floor area)	146 units per ha
Public Open Space (% of net site area)	9,370sq.m (25.2%)
Communal Open Space (% of net site area)	4,200sq.m (11.3%)
Plot Ratio	1.48:1
Site Coverage	22%

**Table 2.** Unit Mix

	studio	one-bedroom	two-bedroom	three-bedroom	Total
Apartments (%)	30 (5.6%)	135 (25.3%)	318 (59.6%)	51 (9.5%)	534

**Table 3.** Parking Spaces

Car parking – cars	419
Car parking – bicycles	1,266
Car parking – motorcycles	17

3.3. In addition to the standard contents, the application was accompanied by various technical reports with appendices and drawings, including the following:

- Planning Report;
- Environmental Impact Assessment Report (Volumes I, II and III);
- Architectural Design Statement;
- Urban Design Report;
- Verified Photomontages and Computer-generated Images;
- Engineering Assessment Report;
- Appropriate Assessment Screening & Natura Impact Assessment;
- Ecological Impact Assessment;
- Bat Assessment;
- Build-to-Rent Covenant;
- Build-to-Rent Operational Plan;
- Build-to-Rent Justification Report;
- Housing Quality Assessment;
- Building Lifecycle Report;
- Architectural Heritage Impact Assessment;
- Daylight, Sunlight and Overshadowing Report;
- Landscape Design Statement;
- Landscape Management Plan;
- Flood Risk Assessment;
- Traffic and Transport Assessment;
- DMURS Statement of Consistency;
- Quality Audit;
- Childcare Assessment;
- Construction Management Plan (CMP);
- Resource Waste Management Plan;
- Travel Plan;
- Luas Capacity Report;
- Operational Waste Management Plan;
- Wind Study;
- Energy and Sustainability Report;
- Construction Environmental Management Plan (CEMP);
- Site Lighting Report;
- Tree Survey and Arboricultural Report;
- Hydrogeological Assessment;
- Response to An Bord Pleanála Opinion relating to items 1, 2 and 12;
- Stormwater Audit (Stage 1);

- Site Investigation Report – Brennanstown Road – South Site;
- Site Investigation Report – Brennanstown Road Additional Investigation;
- Aeronautical Assessment Report;
- Retail Viability Study.

## **4.0 Planning History**

### **4.1. Application Site**

4.1.1. The Planning Authority and the applicant refer to the following planning applications as relating to the subject site:

- An Bord Pleanála (ABP) ref. PL06D.227861 / Dun Laoghaire-Rathdown County Council (DLRCC) ref. D07A/0161 - in September 2008 the Board granted permission to demolish Winterbrook house and construct 39 three-storey houses and 115 apartments in blocks of up to six storeys in height with two vehicular entrances off Brennanstown Road and a pedestrian path and footbridge along the railway embankment to the south of the site, excluding the grounds and property known as Barrington Tower. In 2013 an extension of the duration of this permission was granted by the Planning Authority under DLRCC ref. D07A/0161/E up to a period ending in September 2018.

4.1.2. The Board dealt with the following residential-zoned land tax appeal relating to the subject site and the adjoining Áras Eibhear property:

- ABP ref. VY06D.316457 / DLRCC ref. DM22/0030 - in October 2023 the Board decided to set aside the determination of the Local Authority and permit the appeal allowing for the site to be excluded from the residential-zoned land tax map.

### **4.2. Surrounding Area**

4.2.1. The following applications relate to lands adjoining the application site:



- DLRCC ref. D10A/0104 - in April 2010 the Planning Authority refused to grant retention permission for an electrical substation and associated plant room to serve the Luas greenline extension, as the substation was constructed over a surface water drain;
- DLRCC ref. D11A/0127 - in January 2012 the Planning Authority granted retention permission for an electrical substation and associated plant room to serve the Luas greenline extension;
- DLRCC ref. PC/IC/01/16 – in 2017 the Elected Members of the Planning Authority decided to vote to refuse to grant permission for a Part 8 project titled the ‘Brennanstown Road Traffic Management Scheme’;
- DLRCC ref. PC/CSDZ/013/2022 – in June 2022 the Elected Members of the Planning Authority decided to vote to grant permission for a Part 8 project titled the ‘Cherrywood Green Routes Network’, comprising over 4km of greenways and walkways, including use of an existing underpass to the Luas between the application site southern boundary and the Brennanstown Luas stop, connecting into a 1.2m-wide greenway / walkway route leading eastwards running through Glendruid woodland towards Lehaunstown Road following the southern side of the Carickmines river.

4.2.2. The following are the closest applications to the application site for strategic housing or large-scale residential developments:

- ABP ref. 301614-18 – a strategic housing development was granted by the Board in August 2018 providing for the construction of 98 apartments in three blocks of two to four storeys (over basement) and 38 two to three-storey houses, constructed as the Brennanstown Woods development approximately 130m to the northwest of the application site on Brennanstown Road;
- ABP ref. 305859-19 – a strategic housing development was granted by the Board in June 2020 providing for the demolition of a house and the construction of 234 apartments in three blocks of one to eight storeys at the Doyle nurseries site approximately 500m to the east of the application site on Brennanstown Road;

- ABP ref. 313322-22 – in April 2022 a strategic housing development was lodged to the Board seeking permission for the construction of 41 houses and 402 apartments, a supermarket, seven retail / retail service units, two non-retail / commercial units, a childcare facility, community space, residential facilities, office / high-intensity employment use, reserved site for a school and all associated site works, comprising six blocks up to five storeys in height to the south of the application site on the opposite side of the Luas greenline corridor. I am not aware of a decision by the Board regarding this application, which is known as Priorsland strategic housing development;
- ABP ref. 313341-22 – in April 2022 a strategic housing development was lodged to the Board seeking permission for the construction of 118 apartments and all associated site works in three seven-storey blocks on the Glenamuck Road approximately 360m to the west of the application site. I am not aware of a decision on this application to the Board.

## **5.0 Section 5 Pre-application Consultation**

### **5.1. Pre-application Consultation**

5.1.1. A pre-application consultation meeting between representatives of An Bord Pleanála, the applicant and the Planning Authority took place on the 15<sup>th</sup> day of November, 2021, in respect of a development comprising 567 build-to-rent apartments, a childcare facility and associated site works. Copies of the record of this consultation meeting and the Inspector's report arising from this consultation are appended to this file. The main topics raised for discussion at the tripartite meeting were as follows:

- traffic safety, access, permeability and connectivity, including the capacity of Brennanstown Road, as well as the proposed access and delivery timeframe for the Brennanstown Luas stop;
- architectural design approach, including impact on the character of the area and justification for the proposals;
- residential amenity, including residents' support services and amenity space, open space, layouts, lighting and material contravention issues;

- ecology, EIAR, landscaping, loss of trees and woodlands;
- issues raised in the report from Dun Laoghaire-Rathdown County Council, including landscaping, Part V, visual impacts and drawing accuracy;
- development rationale considerations.

## 5.2. Board Opinion

5.2.1. In the Notice of Pre-Application Consultation Opinion (ABP ref. 311304-21) dated the 23<sup>rd</sup> day of November, 2021, An Bord Pleanála stated that it was of the opinion that the documents submitted constituted a reasonable basis for an application under section 4 of the Act of 2016, and that in addition to the standard strategic housing development application requirements, the following specific information should be submitted with any application for permission arising:

- statement regarding safe tie-ins with the wider road network;
- statement regarding traffic and pedestrian facilities to serve the development;
- a material contravention statement;
- cross-section drawings;
- justification for the landscaping layout and open space provision;
- ecological impact assessment, including bat survey;
- landscape details, including open space, quality audit measures, way-finding, street furniture, lighting and boundary treatments;
- daylight and shadow impact assessment;
- demonstration of measures to maximise lighting to apartments;
- visual impact assessment;
- childcare demand analysis;
- response to matters raised by the Planning Authority;
- a building lifecycle report;
- reference to 'build-to-rent' apartments in statutory notices;

- rational and evidence to support build-to-rent aspect;
- a microclimate impact assessment;
- justification for the retail convenience store element;
- a site layout plan with taken-in-charge areas;
- a construction and demolition waste management plan.

5.2.2. The prospective applicant was requested to notify the following prescribed bodies in relation to the application:

- Uisce Éireann;
- Transport Infrastructure Ireland (TII);
- the National Transport Authority;
- the Minister for Culture, Heritage and the Gaeltacht;
- The Heritage Council;
- An Taisce;
- Fáilte Ireland;
- Dun Laoghaire-Rathdown County Childcare Committee.

### **5.3. Applicant's Response to Opinion**

5.3.1. Chapter 6 of the application Planning Report comprises a response to the pre-application consultation opinion issued by An Bord Pleanála, initially setting out the specific information that has been submitted with the application to address the opinion and referring to the requested consultation undertaken with prescribed bodies.

## **6.0 Planning Policy**

### **6.1. National Planning Policy**

#### Project Ireland 2040 - National Planning Framework

6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The

NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040. The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations.

- 6.1.2. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 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. Other NPOs of relevance to this application include NPOs 3(a) (40% of homes in existing settlement footprints), 3(b) (50% of new homes in the five largest cities, including Dublin), 4 (attractive, liveable and well-designed urban places), 13 (development standards), 27 (transport alternatives) and 35 (increased densities) all relating to densification and compact urban growth.

#### Ministerial Guidelines

- 6.1.3. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines comprise:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (hereinafter the 'Sustainable Settlements Guidelines');
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (hereinafter the 'New Apartment Guidelines');
- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the 'Building Heights Guidelines');
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government on the 17<sup>th</sup> day of January, 2018;
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001) (hereinafter the ‘Childcare Guidelines’).

6.1.4. Although not an exhaustive list, the following planning guidance and strategy documents are also considered relevant:

- Cycle Design Manual (2023);
- Climate Action Plan (2023);
- Transport Strategy for the Greater Dublin Area 2022-2042;
- Housing for All – A New Housing Plan for Ireland (2021);
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- National Biodiversity Action Plan 2017-2021;
- Road Safety Audits (TII, 2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (TII, 2014);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (2<sup>nd</sup> Edition 2011, 3<sup>rd</sup> Edition 2022);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0);
- Framework and Principles for the Protection of the Archaeological Heritage (1999).

## **6.2. Regional Planning Policy**

6.2.1. The 'Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031' supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant to this application:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

6.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

## **6.3. Local Planning Policy**

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

6.3.1. The application site and the adjoining lands to the east and west have a land-use zoning 'A' within the Dun Laoghaire-Rathdown County Development Plan 2022-2028 with a stated objective 'to provide for residential development and improve residential amenity while protecting the existing residential amenities'. 'Residential – build-to-rent' and 'neighbourhood shop' uses are open for consideration in this zone, while childcare services and open space are permitted in principle in this zone. The wooded area along the riparian corridor adjoining the southern boundary of the site features a land-use zoning 'F' with a stated objective 'to preserve and provide for open space with ancillary active recreational amenities'. The Development Plan identifies an objective 'to protect and preserve trees and woodlands' within the grounds of Barrington Tower on the northern side of the site, while the tower itself is included as reference 1729 in the Record of Protected Structures (RPS) appended to the Development Plan. The RPS refers to this structure as a 'former folly'. The

southern boundary of the site along the Luas line corridor partially overlaps into the area associated with the Cherrywood Strategic Development Zone (SDZ) with the Priorsland development area located directly south of the Luas line. The proposed development would be within the area subject to the terms of the Luas line B1 extension supplementary development contribution scheme. The application site is not identified in the Development Plan as being within an area at risk of flooding.

- 6.3.2. Chapter 14 of the Development Plan comprises a list of specific local objectives (SLOs), including SLO 73 aiming to limit development along the Brennanstown Road to minor domestic infills and extensions, until a traffic management scheme for the area has been completed and its recommendations implemented. The Development Plan aims to provide improved facilities for vulnerable road users, reduce traffic speeds and improve safety, reduce through traffic and ensure boundary treatment and landscaping solutions mitigate the impacts on the sylvan setting of Brennanstown Road.
- 6.3.3. The private burial ground adjacent to the south of the site is also included in the RPS (ref. 2066) where it is referenced as having opened in 1847. There is also an objective to protect and preserve the adjoining woodlands following Carrickmines river. A water hydrant opposite the entrance to the burial ground along Brennanstown Road is included within the record of industrial heritage appended to the Development Plan.
- 6.3.4. Section 4.3 of the Development Plan initially refers to policy objectives relating to 'Homes' and chapter 12 sets out development standards for build-to-rent accommodation, childcare facilities and retail development. Heritage and conservation policy objectives are set out in chapter 11 of the Development Plan.

## **7.0 Statement of Consistency**

- 7.1. The applicant has submitted statements of consistency with planning provisions in their Planning Report, as per the provisions of Section 8(1)(iv)(I) of the Act of 2016. Chapter 7 of the Planning Report refers to the asserted consistency of the proposals with the provisions of 'Project Ireland 2040', 'Rebuilding Ireland', the Building Heights Guidelines, the New Apartment Guidelines, DMURS, the Childcare Guidelines, the Transport Strategy for the Greater Dublin Area 2016-2035 and the RSES for the



EMRA. This chapter also refers to guidelines that have since been revoked, including the Guidelines For Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Chapters 8 and 10 of the Planning Report address local planning policy comprising the Dun Laoghaire-Rathdown Development Plan 2016-2022 and the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The statement asserts that the proposed development would be consistent with national, regional and local planning policies.

## **8.0 Material Contravention Statement**

- 8.1. The applicant has submitted Material Contravention Statements, as provided for under Section 8(1)(iv)(II) of the Act of 2016, addressing both the Dun Laoghaire-Rathdown Development Plan 2016-2022 and the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The applicant states that these statements are submitted with the application in the event that An Bord Pleanála consider the proposed development to materially contravene specific objectives of the Development Plans. With respect to the Development Plan for the 2022-2028 period, the applicant's Material Contravention Statement addresses various matters, including provisions relating to building heights, car parking standards, building separation distances, unit mix, Brennanstown Road improvement objectives (SLO 130 and ST25), convenience shops, standalone childcare facilities and the retrofitting and reuse of buildings. Should the Board consider material contraventions to arise, within this statement the applicant sets out their rationale to justify granting permission, including national policy objectives, the Building Heights Guidelines, the New Apartment Guidelines, precedent cases providing for housing along Brennanstown Road, the need for a retail service, the integrated provision of a childcare facility, and the limited architectural merit of the buildings proposed to be demolished.
- 8.2. In conclusion, the applicant asserts that the Board should grant permission for this strategic housing development having regard to the provisions under subsections 37(2)(b)(i), (ii) and (iii) of the Planning and Development Act 2000, as amended (hereinafter 'the Act of 2000').

## 9.0 Observers' Submissions

9.1. A total of 24 submissions were received by the Board from observers within the statutory period, and these were primarily from residents of the immediate area, local residents' associations, environmental groups, local-elected representatives and Inland Fisheries Ireland (IFI) . The submissions included photographs, aerial images and maps of the area, computer-generated images (CGIs) of the development, extracts from the application, a Transport Planning report, a Planning and Design Review report, a Highways and Transportation Review report and a Drainage Assessment report. The submissions object to the proposed development and / or request that the Board refuse permission for the proposed development for reasons that can be summarised as follows:

### Planning & Development Principles

- overdevelopment contrary to Development Plan provisions, with the previous 2008 permission for residential units on the site more acceptable;
- excessive density on a site that should not be considered to be in a brownfield or an intermediate-urban location;
- the scale of development would not be appropriate for this area;
- the need for housing is recognised, although the proposals would not address social housing needs;
- leasing of social housing for 25-year periods will lead to further housing problems;
- excessive floor area for the retail unit, in material contravention of a zoning objective to the Development Plan, which thereby restricts granting of permission under the provisions of the Act of 2016;
- the proposed retail unit would attract traffic into the development and would lead to anti-social behaviour;
- material contravention of Development Plan SLO 73, policy objective PHP20 (protection of existing residential amenity), policy objective CA6 (retrofit and reuse buildings), unit mix standards and an objective to protect and preserve trees and woodland;

- the scheme should not be permitted having regard to the draft Dublin City Development Plan 2022-2028 build-to-rent development standards and the oversaturation of build-to-rent developments in Dublin.

#### Layout, Design & Heights

- difficulties in developing a steeply-sloping site;
- greater separation distances of 22m would be necessary with insufficient design features to address overlooking between blocks and neighbouring properties;
- an additional setback of buildings along Brennanstown Road is required, which could provide for public open space;
- granting permission should not be solely based on the quality of the architecture;
- an ugly, monolithic, bulky and overly-dense scheme;
- lack of three-bedroom units and inappropriate mix relative to the Housing Needs Demand Assessment (HNDA);
- heights would not be appropriate for the area and should be reduced;
- blocks would lead to a wind tunnelling effect within the communal open space;
- transition in building heights would be more appropriate;
- the provision of public transport services neighbouring the site does not justify the height of the development;

#### Visual Impact

- visually obtrusive, out of character development that does not respond well to the surrounding area;
- inaccurate and selective representation of the impact of the development based on the photomontages submitted;
- independent photomontages should be undertaken;
- the section drawings feature illustrations of buildings obscured by trees;

- a full aerial photomontage of the development, as well as other viewpoints should be provided;
- views from the portal tomb that forms part of a network of monuments would be blocked by the development;
- loss of screen planting on the site boundaries;

#### Residential Amenities

- existing homes should be protected;
- overbearing and overshadowing impacts would arise externally and internally as a result of the development;
- there would be loss of privacy and excessive overlooking, with mitigation via tree planting not likely to address this;
- devaluation of local property prices;
- increased disturbance, including noise emissions;

#### Traffic & Transport

- continued accidents and traffic hazard, as well as health and safety concerns, arising from increased vehicular movements and in using the access;
- Brennanstown Road has not been subject to improvements or a traffic management scheme necessary under SLO 73 of the Development Plan to enable construction of the development;
- permissions for Brennanstown Wood (ABP ref. 301614-18) and Doyle nurseries (ABP ref. 305859-19) would not improve the entirety of Brennanstown Road, with no other proposals to improve this road, therefore, piecemeal development of this road is inconsistent with the proper planning and sustainable development of the area;
- the development would add to traffic congestion experienced daily on Brennanstown Road, which is a rat-run of limited width, poor alignment and visibility, absent of cycle ways, setdown areas and safe crossing points, featuring substandard and omitted stretches of footpaths, vehicular weight restrictions, limited lighting and rural lane characteristics;

- cumulative traffic impacts alongside other residential developments, the Carrickmines retail park expansion, the carrying capacity of the M50 motorway and the site context need to be considered;
- the signalised traffic junction proposed at the entrance to the scheme along Brennanstown Road would worsen the situation in relation to traffic congestion and road safety;
- restricted access is available for emergency vehicles along Brennanstown Road and internally within the development based on Technical Guidance Document (TGD) B;
- poor access to bus transport with the nearest service not directly connecting to the city centre;
- premature pending pedestrian and cycle infrastructure upgrades, including a 2.5m to 3m-wide footpath on Brennanstown Road and an off-road cycle track;
- it would be a 25-minute walk to Laughlinstown / Lehaunstown Lane Luas stop and a 20 to 25-minute walk to Carrickmines Luas stop;
- premature development without the Brennanstown Luas stop operating;
- independent traffic modelling should be undertaken with the traffic study submitted based on surveys undertaken during Covid movement restrictions, in June outside of TII recommended survey periods and reliant on an older survey for one of the junctions;
- modelling of the Brennanstown Road / Bray Road junction should have been undertaken;
- alternative access routes and further information relating to sightlines, vehicle tracking, speed limits, sections, road signage, crossings, cycle lanes, turning arms, visually or physically-impaired movement and safety, and intervisibility at junctions is required;
- the construction traffic management plan needs to address the vehicular weight restriction on immediate roads, haul routes and other details relating to monitoring, movements and vehicles;

- a street design audit is necessary and the Quality Audit submitted should have covered Brennanstown Road;
- the travel plan submitted omits details of how modal targets would be set, monitored, reviewed and implemented, as well as any remedial actions;
- insufficient car parking provision with contradictions in the applicant's rationale for the parking provision and the likelihood of overspill parking to arise in neighbouring areas;

### Cultural Heritage

- overlooking of burial grounds and a monument;
- the former burial ground is a quaker cemetery that is still in use;
- the existing derelict buildings should be retrofitted and reused, particularly given their embodied carbon;
- negative impact on the setting of the portal tomb / dolmen and Barrington tower, due to the limited building separation distances and the proposed building heights;
- Glendruoid house and lodge formed part of the Glendruoid estate, and these features should be carefully considered for their heritage value;
- Barrington tower was constructed to avail of views to Glendruoid woodland and the mountains, which would be blocked by the development, and the setting of the tower would not be enhanced;
- the future intended use for Barrington tower is not clear, and the scale and design of the proposed buildings would be overbearing and would diminish the Protected Structure;
- the EIAR and Heritage Assessment do not sufficiently consider the important setting of the portal tomb and its visual connection with other monuments;
- proposals would lead to further encroachment on the portal tomb site;
- the tomb is aligned to point towards a distant Fairy Castle on Two Rock Mountain and the development affects this view;

## Environmental Services & Drainage

- the development requires capacity in water and wastewater infrastructure;
- the 225mm-foul sewer that it is intended to discharge into is too small and not on the lands in control of the applicant;
- foul water discharge to an existing foul pipe network connecting into a combined water pipe network does not represent good planning practice;
- the appointed management company should be required to enter a service maintenance contract with an authorised and specialised company with responsibility for the maintenance of sustainable urban drainage systems (SUDS) infrastructure;
- increased treated and attenuated surface water discharges from the development and other developments would probably result in failure to meet Water Framework Directive (WFD) obligations for the catchment;
- excessive siltation in the substratum of the Carrickmines river was noted in a 2020 water quality status review;
- nature-based solutions should be used as opposed to hard-engineering solutions for drainage attenuation design;

## Biodiversity

- the removal of trees and green areas is excessive, would not be in anyone's interest and would impact on biodiversity and the setting and character of the area;
- clarity is required in relation to the proposed trees to be maintained and removed (survey v landscaping);
- a more sensitive approach to tree retention is needed;
- noise, disturbance and lighting impacts would arise for sensitive woodland;
- the river and woodland, including the flora and fauna, should be a priority for protection;
- Glendruid valley woodlands are a recognised locally-important ecological site and have potential to be a natural heritage area (NHA);

- a CEMP with mitigation measures should be followed, including protection measures for the stream and consultation with IFI;
- discharge to Carrickmines river leads to an area proximate to Rockabill to Dalkey Special Area of Conservation (SAC);

#### Section 28 Guidelines

- the Building Heights Guidelines and the New Apartment Guidelines, including their respective specific planning policy requirements (SPPRs), are unconstitutional, and the Board should refuse to consider and cannot grant permission for the proposed development if relying on these Guidelines;
- the density, housing mix, public open space, car parking, childcare provision, architectural conservation area (ACA), building height and the visual impact of the proposed development would materially contravene the provisions of the Development Plan, the Local Area Plan, the Masterplan and the Urban Design Framework and cannot be justified under section 37(2) of the Act of 2000 or section 28 Guidelines;
- the proposed development and documentation submitted does not comply with the provisions of the Building Heights Guidelines, including SPPRs 1, 2 and 3, and it is not in compliance with BRE Guidelines;
- the proposed development is not of strategic or national importance;
- the application, including documentation, does not comply with planning regulatory requirements, including the EIA Directive;
- the application fails to prove that the subject proposed development would be sufficiently served with respect to public transport, drainage, water services and flood risk;
- if the proposed development is considered to not comply with objectives of the Development Plan or the Local Area Plan, it would be in unlawful breach of the Strategic Environmental Assessment (SEA) Directive;

#### Screening for Environmental Impact Assessment (EIA)

- even though the proposed development is subthreshold for the purposes of EIA, it should be subject of EIA;



- the application, including the Ecological Report, do not permit an assessment of the potential environmental impacts of the proposed development;
- the application, including the planning report, is contrary to planning legislation;
- insufficient and inadequate information is included with the application with respect to the risk to human health, pollution, construction phase impacts, collision-risk for birds and bats, the population impacts on services, and the general impact on biodiversity and human health arising from the proposed development;
- certain matters should not be left over for agreement following the decision or determination with the assigned development contractor, due to concerns regarding public participation, which would be contrary to the requirements of the EIA Directive;
- the Board lacks the expertise or access to same in order to examine the EIA Screening Report;
- the EIA Screening Report submitted does not comply with statutory requirements and is inadequate, as it fails to assess the impact of the increased population on local services and as it is not based on a complete development description, omitting details of the construction phase;
- the EIAR submitted fails to provide a comprehensive cumulative impact assessment of the proposed development, including other strategic housing developments;

#### Screening for Appropriate Assessment (AA)

- the information submitted by the applicant contains lacunae and is not based on appropriate scientific expertise and the AA Screening Report does not have sufficient or adequate information for a complete AA screening to be conducted;
- there is an absence of reasoning provided in the AA Screening Report with reference to scientific information in arriving at the conclusions and statements made;

- the AA Screening is flawed as it fails to account for the construction phase aspect of the proposed development;
- insufficient surveys have been conducted for the AA screening, including with respect to bird collision/flight risks and the impacts to protected bird species have not been identified and considered in the AA Screening Report;
- the AA Screening Report submitted has regard to mitigation measures and has no regard or inadequate regard for the in-combination impacts of the proposed development on protected sites, including other developments;
- reliance on Ringsend Wastewater Treatment Plan (WWTP) is flawed;
- mitigation measures cannot be relied on with respect to north Dublin Bay Special Area of Conservation (SAC) and North Bull Island Special Protection Area (SPA);

#### Procedural Matters

- proposals fail to comply with article 297 of the Planning and Development Regulations 2001, as revised, (hereinafter 'the Planning Regulations') based on the wording of the letter of consent submitted;
- inadequate development description as the new vehicular entrance onto the applicant's lands along the north of Brennanstown Road is not referenced;
- the site notices were along a stretch of road absent of a footpath and alongside security signage making them difficult to read;
- the SHD process is flawed and undemocratic leading to high rental prices;
- a strip of land on the western boundary with nos. 17 and 18 Brennanstown Vale is erroneously included in the application site, despite being in possession of these neighbouring residential properties;
- lack of engagement by the applicant with residents and the Planning Authority.

## 10.0 Planning Authority Submission

10.1. In accordance with the provisions set out under subsection 8(5) of the Act of 2016, the Planning Authority submitted their Chief Executive Officer's report in relation to the proposal, summarising the prescribed bodies and observers' submissions, and providing planning and technical assessments of the proposed development. The report was accompanied by a record of pre-application meetings online and onsite between representatives of the Planning Authority and the applicant, as well as calculations with respect to the potential development contributions applicable. The views of the Chief Executive Officer of the Planning Authority can be summarised as follows:

### Principle and Density

- the principle of this infill development is acceptable based on Development Plan 2022-2028 zoning, policy objectives PHP18 and PHP19 addressing densification, the NPF and RSES provisions;
- policy objective PHP28 and section 12.3.6 of the Development Plan allow build-to-rent developments in locations within a ten-minute walk or cycle from a high-frequency public transport route. As the 63 and 63a bus route operating a 9-minute walk from the site is not a high-frequency service and the nearest Luas stop at Carrickmines is a 13-minute walk, given the advice from TII in relation to the Brennanstown Luas stop and the lack of progress with respect to the L26 and L27 BusConnects project, the site cannot be favourably considered as a suitable location for a build-to-rent development under current Development Plan provisions;
- concerns arise regarding the proliferation of build-to-rent units as part of the development and the lack of tenure mix / housing choice proposed relative to core strategy targets and housing needs, particularly considering the potential for a proliferation of build-to-rent developments on other infill sites identified in figure 2.8 of the Development Plan;
- if permission is to be granted a condition is recommended to introduce standard apartment types to the development and reduce the build-to-rent mix

to 44% of the units within the development comprising proposed blocks A/B, C/D and E;

- the draft build-to-rent legal agreement should relate to the date of occupation of the units;
- the supporting and recreational amenities proposed for the build-to-rent element would be acceptable;
- policy objective PHP18 of the Development Plan encourages densities at a minimum net density of 50 dwellings per hectare in locations based on their proximity to public transport services and town or district centres;
- the density of the development is not acceptable due to concerns in relation to the impact of the development on the setting and visual amenity of Barrington's tower, and the failure of the proposals to adequately address safety concerns and infrastructural deficiencies along Brennanstown Road;
- the proposals would result in overdevelopment of the site;
- the floor area of the retail unit should not exceed 100sq.m based on Development Plan provisions and a condition to this effect would be necessary;
- a condition regarding Part V social housing provisions would need to be attached;

#### Building Heights & Visual Impact

- the site is suitable for accommodating increased building heights, although infrastructural constraints exist given the distance to operational public transport services;
- adverse impacts on the setting and visual amenities of the Protected Structure would arise, while the boundary treatment works along Brennanstown Road would not be in keeping with the sylvan character of the area. Consequently, the proposals would fail to integrate into or enhance the character of this architecturally-sensitive area;
- some concerns arise regarding the proximity of blocks to the site boundaries and the building heights proposed would result in an abrupt transition,

therefore, it is unclear if the proposals would impact on the amenities of the area;

- the blocks would be visually overbearing when viewed in their entirety from adjacent areas, the streetscape along Brennanstown Road and the Luas line, with scope to address this via building height reductions;
- protected views or prospects would not be impacted and the materials would be acceptable, while the layout would provide an appropriate level of enclosure and surveillance of spaces;
- the proposed development would adversely impact the character of the receiving environment, including the loss of vegetation along Brennanstown Road;
- the site is not capable of accommodating the increased building heights and it has not been demonstrated that the development would comply with the applicable performance criteria set out in table 5.1 of the Building Height Strategy forming appendix 5 to the Development Plan;
- microclimatic impacts such as drafts have been considered by the applicant, as demonstrated in their Wind Microclimate Study;
- to provide for a more measured graduation in building heights, omission of the fourth floors from blocks A/B, C/D, E, G and I, and the fourth and fifth floors from blocks F and H would be necessary;

#### Layout

- minimum separation distances of 22m would not be achieved between blocks in six situations;
- the proposals in relation to tree removal are noted, as well as the objective to protect trees on the site, while the proposed landscaping is considered acceptable, subject to conditions;
- the layout is adequate to address the potential for undue overshadowing or overlooking of neighbouring properties, although some concerns arise with respect to the visual impact of the proposals when viewed from neighbouring properties;

- attachment of a condition to finalise public lighting is recommended;

#### Architectural Heritage

- it is accepted that the pastiche 20<sup>th</sup>-century house known as Barrington Tower can be demolished, as it is not of cultural significance and its removal is considered a positive intervention;
- from a built-heritage perspective the area around the tower is the most sensitive part of the site;
- blocks A/B and C/D to the north of the tower would have an overwhelming impact on the setting and visual amenity of the tower;
- a lower-density approach to development allowing the Brennanstown Road area would be necessary, with reduced heights for blocks A/B and C/D;
- a condition is recommended to reduce all building heights by one or two storeys, given the pre-planning advice and the provisions of the previous permission (DLRCC ref. D07A/0160) allowing for up to six storeys in the southern part of the site;
- the removal of the boundary wall along Brennanstown Road would have the effect of changing the character of the area to an urbanised road corridor replacing the existing sylvan character;
- the railing should be omitted from the boundary wall along the road frontage;

#### Residential Development Standards

- the overall mix of units proposed would comply with SPPR 8 of the New Apartment Guidelines, but it would be preferable if this mix incorporated the standard mix required under policy objective PHP27 of the Development Plan and provided a tenure considerate of neighbouring permitted residential schemes;
- two-bedroom, three-person apartments are not proposed;
- the aspect of the units, the apartment floor areas, floor to ceiling heights, lift and stair core access, internal storage spaces and private amenity spaces meet or exceed the New Apartment Guidelines and the relevant Development Plan provisions;

- daylight access results are noted and are considered acceptable;
- the development would require 15% public open space, with 9,370sq.m to be provided in compliance with the Development Plan;
- the development would require 3,480sq.m of communal open space with 4,350sq.m to be provided between blocks, in compliance with Development Plan standards and the New Apartment Guidelines;
- the childcare facility proposals would align with the relevant provisions of the Development Plan and the New Apartment Guidelines, with the delivery of this facility to be phased with respect to the overall development and conditions with respect to hours of operation;
- the applicant has demonstrated regard for the relative energy cost and expected embodied carbon emissions over the lifetime of the development;
- further details are required with respect to operational waste management to avoid the creation of a serious nuisance during the operation phase;

#### Access, Traffic and Parking

- the Transportation Department recommend refusal of permission for the proposed development, as it would be premature given the lack of adequate, safe pedestrian and cycling facilities along Brennanstown Road, and as it would endanger public safety by reason of traffic hazard and obstruction of road users and others;
- the proposals would be contrary to SLO 73 of the Development Plan;
- should permission be granted the Transportation Department recommend attachment of various conditions relating to access, Brennanstown Road alignment, permeability and pedestrian / cyclist connectivity and movement across the site, car parking provision (one space per apartment), electric-vehicle charging points / spaces, cycle parking, a travel plan and a construction traffic management plan;
- electric-charging facilities should be extended to serve electric bicycles and other chargeable forms of transport;

### Other Matters

- a condition with respect to a management company would be necessary and the development would need to be carried out to the development standards of the Planning Authority;
- noise mitigation measures to address shortfalls in the noise surveys are recommended;
- drainage proposals are considered acceptable by the Drainage Planning section, with conditions recommended regarding an updated report and drawings to address errors or inconsistencies in the Engineering Assessment Report, construction management details, details of the attenuation system, green roofs, SUDS measures, flow-control devices, tree locations and stormwater audits;
- the submitted flood risk assessment is in accordance with the Development Plan requirements;
- there would be no impact on telecommunications or air navigation, and the proposals are considerate of bird and bat-sensitive areas;
- the AA and EIA conclusions are noted and the third-party submissions have been considered;
- the Board is the competent authority for SHD screening, AA, EIA and the determination of the application.

### Conclusion, Recommendation and Statement

10.1.1. The Planning Authority conclude that permission should be refused for the proposed development for four reasons that can be summarised as follows:

**Reason 1** – the proposed development would endanger public safety along Brennanstown Road, would be premature given the lack of adequate, safe pedestrian facilities on Brennanstown road and would be contrary to Development Plan SLO 73;

**Reason 2** – the proposed development fails to accord with build-to-rent policy objective PHP28 and section 12.3.6 of the Development Plan, as the site is not within a ten-minute walktime of high-frequency, public transport routes;



**Reason 3** – the proposed development would result in overdevelopment of the site based on its density, scale, height, massing and block separation distances, which would fail to comply with section 12.3.5.2 and appendix 5, table 5.1 of the Development Plan;

**Reason 4** – the scale, height and massing of the proposed development would adversely impact on the character and setting of Barrington Tower, contrary to Development Plan provisions, including policy objective HER8.

10.1.2. In the event that permission is granted for the proposed strategic housing development, the Planning Authority set out 47 conditions that they consider necessary to attach, the following of which are of note:

**Condition 2** – provide a proportion of standard apartments reducing the build-to-rent provision;

**Condition 3** – reduced building heights of between one and two storeys;

**Condition 4** – revised boundary treatment along Brennanstown Road;

**Condition 9** – retail unit reduced to a minimum of 100sq.m;

**Condition 10** – operational and use restrictions for the retail unit;

**Condition 17(c)**– car parking shall be provided at one space per apartment;

**Condition 27** – a tree bond applies;

**Condition 42** – a section 49 contribution applies.

## 10.2. Inter-Departmental Reports

- Drainage Planning Section – an appropriate level of drainage details has been provided, flood risk has been addressed and clarity is required with respect to the detailed design and construction stages;
- Parks and Green Infrastructure Division – conditions are recommended in relation to landscape plans, a tree bond, arboricultural agreement and the agreement of other details;
- Cherrywood Development Area Planning Team – the section of the site in the Cherrywood SDZ Planning Scheme area does not feature any specific planning objectives and the subject proposals alongside the other

developments envisaged for the SDZ area would support the opening of the Brennanstown Luas stop;

- Environmental Health Office – development would not be acceptable due to the impact on human health during excavation, demolition and construction;
- Transportation Department – refusal of permission is recommended with respect to the endangerment of public safety, due to deficiencies in pedestrian and cycle infrastructures and as the development would be premature based on the provisions of SLO 73 of the Development Plan, with various conditions recommended if permission is granted. The scale of the development would exceed the 700 to 1,000 unit cap that could be accommodated on Brennanstown Road based on the Environmental Report prepared for the Part 8 traffic management scheme application in 2016. The Traffic and Transport Assessment walking and cycling distance maps may not be accurate and the level of reduced car parking would not be acceptable;
- Conservation Division – the proposed development cannot be supported as it fails to strike a balance between the residential element, while protecting the architectural heritage and historic building stock;
- Housing Department – submission noted and recommendations are stated;
- Public Lighting Section – a lighting reality report with the masking hidden is recommended and electric-charging should be extended to electric bicycles and other chargeable modes;
- Environmental Enforcement Section – further information is required with respect to the construction and operational phase waste management, and various construction phase conditions are recommended.

### **10.3. Elected Members**

- 10.3.1. The proposed development was presented to the Elected Members from the Local Authority. In accordance with subsection 5(a)(iii) of the Act of 2016, the comments of the Elected Members at that meeting have been outlined as part of the Chief Executive's Report and these comments can be summarised as follows:

- acceptance that the lands would be developed based on their zoning, but not for the subject proposals, which should be refused;
- impacts on archaeology queried, including the archaeological testing and results presented;
- premature pending traffic management plans, particularly considering the condition and status of Brennanstown Road;
- lack of definitive access details for the proposed retail unit and Brennanstown Luas stop, including universal access;
- need to consider SLO 73 provisions, appropriate car parking ratios and the character of Brennanstown Road;
- one of several intensive, high-density developments;
- poor mix of three-bedroom units in the Part V mix, although the distribution of units is to be welcomed;
- the 25-year lease plan for Part V units is a waste of state resources;
- build-to-rent proposals are not easing the housing crisis and no houses are proposed;
- no evidence that build-to-rent housing is reducing the cost of renting and there is a shortage of rental property in the Dun Laoghaire-Rathdown area;
- overbearing, overlooking, excessive building heights and scale, high number of dual aspect units and poor separation distances;
- lack of consistency with building heights in the Cherrywood SDZ lands, which the site should be integrated into;
- disingenuous photomontages;
- lack of reference to the greenway project and out of character with surroundings.

## **11.0 Prescribed Bodies**

11.1. The following comments were received from prescribed bodies:

## Uisce Éireann

- water supply – is feasible without an infrastructure upgrade;
- wastewater – is feasible without an infrastructure upgrade. An upgrade of the 225mm/300mm-diameter gravity-sewer line would be required;
- the developer would be responsible for the design and construction of infrastructure within the site;
- conditions are recommended, including those relating to connections and agreements, and compliance with Uisce Éireann standards, codes, and practices;

## TII

- both the development and the Cherrywood SDZ proposals include direct access to the non-operational Brennanstown Luas stop;
- a connection to the Part 8 Cherrywood Green Routes Network is not proposed and the method of connection to the Brennanstown Luas stop;
- the proposed site layout, landscaping and lighting do not have regard to the presence and function of the Luas infrastructure, including pick-up and turning areas for vehicles;
- dedicated access to the Brennanstown Luas stop substation or a legal agreement to maintain secure access has not been provided
- taking-in-charge drawings are not provided and the proposals would frustrate and delay the commissioning and operation of the non-operational Luas stop;
- access to Luas underground and overground assets from the subject site is not provided or protected;
- tree planting along the substation would be unsuitable given the presence of foul and surface water drains running along the Luas line;
- absence of a bus capacity assessment;
- technical commissioning of the Luas stop is a matter for TII and the Luas operator, which would need to be coordinated with the Local Authority and the

NTA, as well as being contingent on the advancement of development within Cherrywood SDZ;

- technical commissioning of the Luas stop could extend beyond one year or more;
- occupation of the development should not occur until matters pertaining to passenger and service access to the Brennanstown Luas stop has been addressed and the stop is operational, with the proposals considered premature pending resolution of same;
- the current proposal is unacceptable as it conflicts with national policy objectives to safeguard the investment made in the light rail transport network to ensure quality levels of service, accessibility and connectivity to transport users;
- a condition of any grant of permission should include for contributions to the Section 49 Levy Scheme for the Light Rail (Extension of LUAS Line B1 - Sandyford to Cherrywood).

#### Minister for Housing, Local Government and Heritage

- the suite of mitigation measures in the application CEMP and NIS should prevent mobilisation of polluting materials from the development to the Carrickmines river, and these measures should be incorporated and implemented as part of the final project CEMP;
- clearance of trees and shrubs should not take place during breeding-bird season;
- felling of trees and the provision of a bat house, bat boxes and a bat roost should follow the approach in the application Bat Survey Report;
- finalised design of external and internal lighting should be agreed and signed off by a bat specialist, and subsequently implemented and monitored;
- a condition is recommended with respect to archaeological monitoring, recording, preservation and reporting.

## An Taisce

- the National Inventory of Architectural Heritage (NIAH) and RPS status of Barrington Tower and Barrington cemetery is referenced;
- the interconnectivity between Barrington Tower, Glendruid, the Barrington family cemetery, Brennanstown cromlech (portal tomb) and the river valley is provided via extracts from a book titled 'Between the Mountains and the Sea';
- the proposed height of the buildings would have a negative impact on the cemetery setting, would be detrimental to the amenities of the open space and would be incongruous and overbearing along the river valley setting;
- improved public access to the river valley and portal tomb is supported;
- the limited capacity of Brennanstown Road and the provisions of SLO 73 of the Development Plan are noted;
- reliance is placed on a Luas stop approximately 1km walk from the site in the absence of the Brennanstown Luas stop being opened;
- cumulative capacity considerations alongside other residential developments of substantive scale is required, which would point to capacity issues on the Luas greenline.

11.1.1. In addition to the above prescribed bodies, the applicant states that they notified the National Transport Authority, The Heritage Council, Fáilte Ireland and Dun-Laoghaire-Rathdown County Childcare Committee. An Bord Pleanála did not receive a response from these bodies within the prescribed period.

## **12.0 Oral Hearing Request**

12.1. Five submissions received on behalf of local residents of the Brennanstown Road area and the Glendruid Dolmen Public Group included the prescribed fee and formally requested that an oral hearing be held in respect of this application. I note that Section 18 of the Act of 2016 provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board shall:

- (i) have regard to the exceptional circumstances requiring the urgent delivery of housing, as set out in the Action Plan for Housing and Homelessness, and;

(ii) only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

12.2. The submissions do not set out any specific reasons for requesting an oral hearing in this case, nor do they suggest that an oral hearing should be held to discuss specific concerns. In the documentation submitted the applicant has set out their rationale for the design of the proposals. Having regard to the circumstances of this case, to the issues raised in the observations and submissions received by the Board, as set out in sections 9, 10 and 11 above, and the assessments set out in sections 13, 14 and 15 below, I consider that there is sufficient information available on the file to reach a conclusion on all matters arising. I do not consider that there are exceptional circumstances or a compelling case for the holding of an oral hearing in this case.

## **13.0 Assessment**

### **13.1. Introduction**

- 13.1.1. This assessment considers the proposed development in the context of the statutory plan for the area, as well as national policy, regional policy and relevant guidelines, including section 28 guidelines.
- 13.1.2. From the outset I note that the applicant lodged the subject application to An Bord Pleanála on the 12<sup>th</sup> day of April, 2022, prior to the Dun Laoghaire-Rathdown County Development Plan 2022-2028 coming into effect on the 21<sup>st</sup> day of April, 2022. The application documentation, including the Material Contravention Statement, addresses the provisions of the previous 2016-2022 Development Plan for this area and the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which was in final draft format at the time of lodging the application to the Board. The five-week public consultation period in which responses could be received by the Board regarding the application overlapped with the period in which the Dun Laoghaire-Rathdown County Development Plan 2022-2028 was in effect and, accordingly, this allowed all parties to make submissions based on the provisions of the current statutory plan for this area. The Chief Executive Officer's report, observers'

submissions and prescribed bodies' submissions refer to various provisions in the Dun Laoghaire-Rathdown County Development Plan 2022-2028. I am satisfied that all parties to the application and the general public had sufficient scope to address the current Development Plan for this area in submissions to the Board regarding the application.

13.1.3. Having regard to the documentation on file, including the application submitted, the contents of the Chief Executive Officer's report received from the Planning Authority, issues raised in the observations to the application, the planning and environmental context for the site, and my visit to the site and its environs, I am satisfied that the substantive planning issues arising for this assessment can be addressed under the following headings:

- Development Principles;
- Density;
- Design, Layout & Access;
- Impacts on Cultural Heritage;
- Building Heights;
- Impacts on Neighbouring Amenities;
- Residential Amenities and Development Standards;
- Traffic and Transportation;
- Services and Drainage;
- Procedural Matters;
- Material Contraventions.

13.1.4. Various environmental matters such as those relating to natural heritage, are addressed as part of the assessments under sections 14 and 15 of this report.

## **13.2. Development Principles**

### Strategic Housing Definition

13.2.1. The proposed buildings would comprise a stated 38,806sq.m of net residential floorspace, which would be exclusive of 31,490sq.m ancillary residential floor space,



including covered parking areas and stores. A total of 693sq.m of non-residential floor space is proposed in the form of a retail unit and a childcare facility. As part of the development it is proposed to demolish two houses with floor space amounting to 662sq.m, which would not form functional floor space in the new development. The intended use of Barrington Tower, which would remain as part of the development and feature 31sq.m floor space dominated by a new stairs, has not been stated. Notwithstanding this, I am satisfied that the 4,500sq.m or 15% non-residential floor space limitations set out in section 3 of the Act of 2016 would not be exceeded as part of the proposed development, and I am satisfied that the proposed development featuring 534 build-to-rent residential units would come within the statutory definition of a 'strategic housing development'.

#### Land-Use Zoning Objectives

- 13.2.2. Based on the zoning maps appended to the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the vast majority of the application site features a land-use zoning 'A' with an objective 'to provide for residential development and improve residential amenity while protecting the existing residential amenities'. Build-to-rent residential and neighbourhood shop uses are open for consideration in this zone, while childcare facilities and open space are permitted in principle in this zone. An open for consideration use may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, where it would not have undesirable effects, and where it would otherwise be consistent with the proper planning and sustainable development of the area.
- 13.2.3. I am satisfied that the childcare facility and open space aspects of the proposed development would comply with the land-use zoning objectives in the Development Plan for this site. Further consideration with respect to the appropriateness of the build-to-rent apartments and retail elements of the proposed development that are open for consideration on the site is undertaken directly below.
- 13.2.4. An area amounting to 203sq.m on the southern-most boundary of the site falls within the Cherrywood Planning Scheme SDZ area. The development would feature a landscaped access from the site to the southern boundary in this SDZ area, and it would not conflict with objectives of the Planning Scheme, which identifies this area

as 'white land' associated with the Luas greenline corridor, with no specific land use objectives.

#### Build-to-Rent Use

- 13.2.5. The Chief Executive of the Planning Authority considers the application proposals to be acceptable having regard to the zoning objectives for the site. The Elected Members of the Planning Authority refer to broader concerns with respect to the build-to-rent housing typology beyond the scope of this assessment. The observers state that the scheme should not be permitted having regard to the build-to-rent development standards contained in the draft Dublin City Development Plan 2022-2028, as well as the oversaturation of build-to-rent developments in Dublin. As noted above, the operative Development Plan for this area is the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which describes build-to-rent development as the practice of delivering purpose-built, residential-rental accommodation and associated amenity space that is designed with the sole purpose of being used as long-term rental accommodation, as well as being professionally owned and managed by an institutional landlord. Policy objective PHP28 of the Development Plan aims to facilitate the provision of build-to-rent developments in suitable locations across the County based on the provisions of the New Apartment Guidelines, while avoiding a proliferation of such developments in any one area. Section 4.3.2 of the Development Plan requires build-to-rent development to be located within a ten-minute walk time from high-frequency public transport routes.
- 13.2.6. The applicant has submitted a Build-to-Rent Justification Report with their application, referring to the demographic profile of the area, housing demand, planning provisions, site context, the proposed amenities and rental market as justifying the build-to-rent housing tenure for the development. This Justification Report and various reports in the application refer to the application site as being a 13-minute walk from Carrickmines Luas stop. The Planning Authority do not consider the site to be within a ten-minute walk or cycle from a high-frequency public transport route based on the limited frequency of the nearest bus services, the distance to the nearest operational Luas stop, the lack of progress regarding the L26 and L27 BusConnects project running along Glenamuck Road / Claremont Road and

given the response of TII indicating issues to be resolved with the proposed development in servicing and accessing Brennanstown Luas stop.

- 13.2.7. As discussed further below, when considering density issues, I am satisfied that there are no existing or advanced bus routes within ten-minute walk of the site that could be considered of high-frequency. Notwithstanding this, the Luas greenline route running along the southern boundary of the site would be within ten-minute walk time from the entire proposed scheme, including the Brennanstown Luas stop. This Luas stop would be a one-minute walk from the southern boundary of the site and it currently features the various hard infrastructure elements that would allow it to commence operation in a short timeframe, including platforms, signage, shelters and an access path extending to and flush with the ground level on the southern boundary of the application site. I accept that the Luas stop is not presently operational, however, given the situation outlined and as the route is operational, it would be unreasonable to consider the proposals contrary to the provisions in Section 4.3.2 of the Development Plan. The site is adjacent to a high-frequency public transport route and a condition could be applied in the event of a grant of planning permission to restrict the occupation of the proposed apartments until the Brennanstown Luas stop is operational.
- 13.2.8. When reviewing the proposed development against policy objective PHP28, the Planning Authority consider that the development would potentially result in a proliferation of build-to-rent developments in the immediate area if other build-to-rent developments were to be permitted on other suitable residential infill sites. I acknowledge that there is likely to be housing within the immediate area that is rented long term, however, I am not aware of any permitted build-to-rent developments in the immediate area. The applicant's Justification Report does refer to a number of residential schemes, however, it is not clear if all are built-to-rent schemes, although I would note that these schemes are centred on Sandyford, Cherrywood, Leopardstown and Cabinteely village, a reasonable distance from the application site. When considering the specificity of the Department of Housing, Local Government and Heritage circular NRUP 07/2022, ending provisions for build-to-rent developments, given the limited reference to build-to-rent apartments in the immediate area, and the potential additional units in this subject application, I am satisfied that the scale of build-to-rent apartments on this site would not result in a

proliferation or an oversaturation of such schemes in the area immediate to the application site. Accordingly, the proposed development would assist in providing for a suitable mix of housing in this area. Permission for the proposed development should not be refused for reasons relating to policy objective PHP28 of the Development Plan.

- 13.2.9. The update of the New Apartment Guidelines dating from December 2022 no longer recognises build-to-rent schemes as a distinct category in relation to amenity standards, although section 5.7 of these Guidelines acknowledges the role of build-to-rent schemes in housing supply and promoting compact urban form. Notwithstanding this, in conjunction with the updated Guidelines, the aforementioned Department circular confirmed that transitional arrangements would apply to applications for build-to-rent apartment developments that were in the system when the updated New Apartment Guidelines came into effect. This is acknowledged in the Development Plan and would apply to the subject application, which was lodged in April 2022. Accordingly, the standards set out under SPPRs 7 and 8 of the New Apartment Guidelines dating from 2020 are applicable and it is these standards that the Board must have regard to when decided upon the subject application. I am satisfied that the principle of the application in providing build-to-rent apartments on this site would not be contrary to Government guidance and policies.
- 13.2.10. The applicant has submitted a proposed covenant or legal agreement with their application, to address compliance with the provisions of SPPR 7(a) of the New Apartment Guidelines. As requested by the Planning Authority, the period for this covenant or agreement would need to be from the date of occupation of the first residential unit within the scheme. A finalised covenant or legal agreement to address same can be requested as a condition in the event of a grant of planning permission for the proposed development.
- 13.2.11. The Planning Authority raised concerns regarding the lack of tenure mix or housing choice within the proposed development relative to core strategy targets and housing needs. As a consequence, the Planning Authority considered the proportion of build-to-rent units within the scheme should be reduced to 44% of the units and contained within proposed blocks A/B, C/D and E. I do not consider it strictly necessary to vary the housing tenure, particularly as the New Apartment Guidelines would indicate that the site is wholly suitable for an apartment-only development, as the Development

Plan land-use zoning objectives for the site do not restrict build-to-rent apartments on the site and as the Housing Strategy and HNDA appended to the Development Plan do not assign a specific housing tenure mix for this housing typology, a matter that is addressed further below under section 13.8.

#### Retail Unit

13.2.12. The proposed development would feature a retail unit with a gross floor area amounting to 318sq.m and an associated bin store measuring 19sq.m. As noted above a 'neighbourhood shop' is open for consideration in this zone. Observers to the application assert that the retail unit would feature an excessive floor area as the Development Plan stipulates that a 'neighbourhood shop' can only feature a maximum floor area of 100sq.m. Arising from this, the observers assert that the proposals would be in material contravention of a zoning objective to the Development Plan, which would restrict granting of permission for the proposed development under the provisions of the Act of 2016. Table 13.1.2 of the Development Plan lists the uses open for consideration and permitted in principle on lands featuring zoning objective 'A', with stipulations for some uses. The table does not refer to a restricted floor area for a neighbourhood shop. Section 13.2 of the Development Plan defines various uses, including a 'neighbourhood shop', which it states is a shop that primarily serves a local community and does not generally attract business from outside that community. According to the Plan such shops will primarily serve a walk-in population and will typically have limited carparking. Section 12.6.3 of the Development Plan states that small/local convenience shops will be open for consideration within a residential area with reference to lands zoned objective 'A'. When assessing any such proposals, the Council will have regard to the distance from the proposed development to established local shopping facilities and to its impact on the amenity of adjoining dwellings.

13.2.13. According to sections 7.5.5 and 12.6.3 of the Development Plan, local convenience shops should not have a net floorspace of greater than 100sq.m and policy objective RET8 aims to facilitate the provision of local convenience shops in residential areas where there is a clear deficiency of retail provision, subject to protecting residential amenity. Based on the applicant's Retail Viability Study, the closest retail clusters are a 15-minute walk at least from the application site entrance on Brennanstown Road. The study fails to identify the emerging cluster in Cherrywood town centre.

Despite accepting that the floor area of the retail unit would exceed the 100sq.m restriction, the applicant considers the floor area of the unit to be appropriate based on the fact that the net floor area of the unit would be likely to be between 223sq.m to 254sq.m, which would be similar to the 200sq.m net floor area permitted for local retail units in the adjacent Cherrywood SDZ planning scheme area.

13.2.14. I am satisfied that there is limited convenience retail provision within a reasonable walking distance of the site, and, as such, there would be merit in providing such a unit as part of the development. Notwithstanding this, a retail unit of greater than 100sq.m net floor area would not be permissible based on the Development Plan provisions relating to this area. The Planning Authority addresses this matter by asserting that the floor area of the retail unit should not exceed 100sq.m and a condition to this effect would be necessary. The applicant addresses non-compliance of the retail unit with zoning objectives in their Material Contravention Statement.

13.2.15. Under the provisions of section 9(6) of the Act of 2016, the Board may decide to grant a permission for a proposed strategic housing development where the proposed development, or a part of it, contravenes materially the Development Plan relating to the area concerned, albeit with exception to a material contravention of zoning objectives and subject to other circumstances outlined in section 13.12 of my report below. While I accept that the scale of the overall development is such that the inclusion of the proposed retail unit would be of lower order and of doubtful materiality, it could also reasonably be maintained that the inclusion of this unit would represent a material contravention of the zoning objectives of the Development Plan. Accordingly, from a precautionary perspective I am satisfied that the proposed retail unit should either be restricted to a net floor area of 100sq.m, omitted via condition or refused permission as part of the development. As the unit is internalised in proposed apartment block C/D, there would only appear to be scope for the unit to feature a restricted floor area or for it to be omitted from the scheme in the event of a grant of planning permission for the proposed development. Given the identified merit in providing a convenience shop as part of the proposed scheme, to comply with Development Plan provisions I would be satisfied for a condition to be attached to restrict the net floor area of the retail unit to a maximum of 100sq.m should permission be granted for the proposed development.

## Demolition Works

- 13.2.16. Details of the buildings and walls on site to be demolished and removed are included in the application package. The 20th-century house known as Barrington Tower is to be demolished and removed, as is Winterbrook, a six-bedroom dormer-style house (drawing no.BRT-1-02-WB-ZZZ-DR-RAU-AR-1102). The folly or tower attached to the house known as Barrington Tower would be repaired and restored as part of the development.
- 13.2.17. Policy objective CA6 of the Development Plan requires the retrofitting and reuse of existing buildings, rather than their demolition and reconstruction where possible, recognising the embodied energy in existing buildings, thereby reducing the overall embodied energy in construction. The observers object to the demolition of the buildings, asserting that the existing buildings should be retrofitted and reused, particularly given their embodied carbon, asserting that this aspect of the development would be contrary to policy objective CA6. The applicant addresses the potential for this view to be taken of their development in their Material Contravention Statement.
- 13.2.18. The proceeding text in the Plan to policy objective CA6 refers to the demolition of buildings as being acceptable if they cannot be incorporated into a new layout and the development facilitates a significant increase in density. As outlined in section 13.3 below the proposed development would incorporate a substantive increase in residential density on this site. Furthermore, the demolition and removal of the house known as Barrington Tower would be necessary for the layout of the development to suitably address the setting and character of the Protected Structure (see section 13.5 below). Given the flexibility afforded by the proceeding text to policy objective CA6 and as these houses are in a poor state of repair, I am satisfied that the proposals could not reasonably be considered to materially contravene policy objective CA6.
- 13.2.19. The two houses are not considered to form part of the Protected Structure and the application site is not located within an architectural conservation area. The buildings proposed to be demolished are not assigned specific conservation status based on the information available and presented, and in providing for sustainable

redevelopment of the site, I am satisfied that the principle of their removal would not be contrary to the planning provisions of the Development Plan.

- 13.2.20. A Resource and Waste Management Plan has been submitted as appendix 13.1 to the EIAR accompanying the application, addressing methods of removing the buildings from the site. A standard condition can be attached in the event of a grant of planning permission for the proposed development to require a final Resource and Waste Management Plan to be agreed with the Planning Authority prior to the commencement of any demolition works on site.

#### Phasing

- 13.2.21. The Development Plan does not specifically set out phasing requirements for the development of these lands, although section 12.3.4.4 of the Development Plan refers to the need for phasing proposals to be provided as part of applications, including a schedule, while section 12.11.2.3 refers to the need for phasing proposals with respect to a development comprising a Protected Structure to ensure the conservation and use of a Protected Structure is secured at the start of the project. The applicant has submitted a Phasing Plan (drawing no.BRT-1-02-SW-ZZZ-DRRAU-AR-1200) that details two phases for the development, the first of which would include the vast majority of the site, including block C/D containing the childcare facility and retail unit, with blocks H, I and J and the area immediate to these blocks on the southern side of the site excluded from phase 1 and included in phase 2. The access route south of blocks H and I would not fully sit within the phase 1 area, which I consider would be necessary to occur. The project CEMP provides further details with respect to the project timelines and phasing, where it is stated that the construction programme, exclusive of the site clearance and demolition phase, would take three years and three months.

- 13.2.22. The construction phasing outlined in the CEMP does not strictly align with the two phases illustrated in the Phasing Plan drawing, as the CEMP states that the construction works would be undertaken in a single phase. The applicant addresses the demolition works proximate to the Protected Structure in their CEMP, although it is unclear when this element of the project would be completed relative to the other elements of the project. The applicant's Creche Assessment report does not state when the childcare facility would be operational. Based on projects of a similar scale



and nature, the project timeline would appear reasonable, although it would appear prudent to ensure the timely delivery of supporting infrastructures and services, for final phasing proposals to be submitted to the Planning Authority via condition should permission be granted for the proposed development.

#### Social Housing

- 13.2.23. Given the number of units proposed and the size of the site, the applicant is required to comply with the provisions of Part V of the Act of 2000, which aims to ensure an adequate supply of housing for all sectors of the existing and future population. Part V Guidelines require a planning application to be accompanied by detailed proposals to comply with Part V housing requirements, and the Housing Department within the respective Local Authority should be notified of the application.
- 13.2.24. Appendix 2 to the Development Plan comprises the Council's Housing Strategy and HNDA, which requires 20% of new residential developments to be made available for social housing. Part V of the Act of 2000 was amended by the Affordable Housing Act 2021, amending provisions with respect to the Part V percentage housing allocation in a development, dependent on the date of purchase of the respective site. The application includes correspondence from the Housing Department of Dun Laoghaire-Rathdown County Council referring to the applicant's proposal to lease out 10% of the units within the scheme to meet the Part V housing requirement. The 53 two-bedroom, four-person units to be leased to the Planning Authority would be distributed across each of the proposed blocks within the scheme.
- 13.2.25. The observers assert that the proposals would not address social housing and they refer to the leasing of the social housing over a 25-year period as potentially leading to problems in the future. The Elected Members of the Planning Authority consider the mix of Part V units to be poor, although they welcome the distribution of units. Similar to the observers, the Elected Members consider a 25-year lease plan of Part V units to be a waste of State resources. The Housing Department of the Planning Authority acknowledge the details submitted, noting the Government's proposals to phase out long-term leasing of social housing, while requiring a final Part V agreement to be entered into as a condition in the event of permission being granted.

13.2.26. Should the Board decide to grant permission for the proposed development, I am satisfied that the Part V requirements, including the proportion of units to be allocated, are matters that can be finalised with the Planning Authority by way of a condition. The overall social housing provision proposed generally accords with the relevant planning provisions and would help to provide a supply of housing for all sectors of the existing and future population, as well as facilitate the development of a strong, vibrant and mixed-tenure community in this location.

### Conclusion

13.2.27. In conclusion, having regard to the scale and nature of the development proposed, the current statutory plan for this area and the provisions of Department Circular NRUP 07/22, a build-to-rent development on this site is acceptable, and, subject to conditions addressing finalised demolition management, phasing and the floor area of the proposed retail unit, I am satisfied that the proposed development would comply with the Development Plan.

13.2.28. The Planning Authority and TII has requested the attachment of a supplementary development contribution condition under section 49 of the Act of 2000, which would appear appropriate to apply based on the terms of the Section 49 Levy Scheme for the Light Rail Extension of LUAS Line B1 - Sandyford to Cherrywood.

## **13.3. Density**

13.3.1. Observers assert that the proposed density of the scheme would be excessive for the area, would lead to overdevelopment of the site, would materially contravene the provisions of the Development Plan and cannot be justified under section 37(2) of the Act of 2000 or section 28 guidelines. The Planning Authority initially considered the proposed densification of the site to be acceptable based on strategic planning guidance, including the NPF and RSES, however, they concluded that the proposed density of the subject development would not be acceptable due to concerns in relation to the impact of the development on the setting and visual amenity of Barrington Tower and due to infrastructural deficiencies along Brennanstown Road. The Elected Members from the Planning Authority referred to the scheme being one of several high-density proposals in the vicinity.

- 13.3.2. The applicant acknowledges the low density of the surrounding established residential area, and they consider that the density of the proposed scheme to be acceptable based on the location relative to local district centres and Luas infrastructure, including the Carrickmines and Laughanstown Luas stops within 1km of the site and the adjacent non-operational, but completed Brennanstown Luas stop. The various provisions of the New Apartment Guidelines, the Building Heights Guidelines, the RSES and the NPF are asserted by the applicant to justify the density of the proposed development.
- 13.3.3. Comprising 534 units on a net site area of approximately 3.71ha, which excludes the area forming part of Brennanstown Road and the applicant's property to the north (Appledore), when following the approach set out in appendix B to the Sustainable Settlements Guidelines the proposed development would feature a net density of 146 units per hectare. When compared with housing in the immediate environment, such densities would be substantively higher than the densities of existing developments along Brennanstown Road. The recently constructed Brennanstown Woods development (ABP ref. 301614-18), comprising houses and apartments, features a net density of approximately 50 units per hectare. The recent permission (ABP ref. 305859-19) for the Doyle nurseries site located approximately 500m to the east of the site along Brennanstown Road, features a net density of 126 units per hectare.

#### Local Policy

- 13.3.4. Policy objective PHP18 of the Development Plan seeks to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield sites having regard to proximity and accessibility considerations. This policy objective also sets out to encourage higher residential densities, subject to proposals providing for high-quality design while protecting existing residential amenities and the established character of surrounding areas. The Development Plan refers to the ten-minute neighbourhood concept as having the potential to reduce the urban and carbon footprint of the county.
- 13.3.5. In determining residential densities for various locations, the Development Plan states that regard should be given to the Sustainable Residential Development Guidelines 2009 and the associated Urban Design Manual. These Guidelines have

recently been replaced by the Sustainable Settlements Guidelines and reliance is placed on these new Guidelines in my assessments below where the Development Plan refers to the replaced Guidelines and the associated manual. According to the Development Plan, residential development should exceed a net value of 35 units per hectare, particularly on large 'A' zoned lands, while higher net densities of greater than 50 units per hectare are encouraged for sites within approximately a 1km pedestrian catchment or a ten-minute walk time of a rail station, a Luas line, a core / quality bus corridor, and / or 500m or five-minute walk time of a bus-priority route, and / or 1km or ten-minute walk time of a town or district centre.

#### National and Regional Policy

- 13.3.6. In terms of the national policy context, the NPF promotes the principle of compact growth at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures. It is recognised in the NPF that a significant and sustained increase in housing output is necessary. RPO 3.3 of the RSES for this region requires increased densities, in line with the provisions set out in the Building Heights Guidelines and the New Apartment Guidelines.
- 13.3.7. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and that this should not only be facilitated but should be actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- 13.3.8. The New Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support ongoing population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail locations for increased densities by defining areas in cities and towns that may be suitable, with a focus on the accessibility of a site by public transport and proximity to

city / town / local centres or employment locations. Suitable locations stated in the Guidelines include 'central and / or accessible urban locations', 'intermediate urban locations' and 'peripheral and / or less accessible urban locations'. The Guidelines also state that 'the range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors'.

- 13.3.9. The Sustainable Settlements Guidelines promote increased residential densities and the utilisation of a tiered approach in identifying appropriate densities for settlements, with density ranges for the city centre, urban neighbourhoods and suburbs of Dublin city set out in table 3.1 of the Guidelines. There is a general presumption in these Guidelines against densities exceeding 300 units per hectare. The density range suitable for a site should be considered and refined according to these Guidelines, with densities at the higher end of the ranges suitable for the most central and accessible locations relative to public transport provision, including locations within 1km walking distance of an existing or planned high-capacity, urban public transport node or interchange, including DART, high-frequency commuter rail, light rail and MetroLink services, or locations within 500m walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop.

#### Access to Public Transport

- 13.3.10. The application Traffic and Transport Assessment sets out the public transport services currently available in the immediate and wider area. The nearest public bus stops to the application site are located on Brighton Road approximately 650m to the west of the proposed entrance to the application site. These bus stops are served by Go Ahead routes 63 and 63a connecting Kiltiernan village with Dun Laoghaire, with services generally operating every half hour during daytime hours. The other closest bus stops to the application site are located along the N11 and Bray Road, which are over a 1.2km-distance or a ten-minute walk from the application site. Consequently, based on definitions within the New Apartment Guidelines and the Sustainable Settlements Guidelines, the site would not be within easy access of high-frequency urban bus services. Observers also highlight that the closest bus services do not directly serve the city centre.
- 13.3.11. Luas light rail services operate along the line adjacent to the southern boundary of the site. Observers refer to the nearest operational Luas stop at Carrickmines, as

being a 20 to 25-minute walk from the site. As identified by the applicant, I accept that Carrickmines Luas stop would be a 13-minute walk from the entrance to the proposed development, although this walk time would increase for those residing along the southern side of the development. Brennanstown Luas stop is located 150m to the southeast of the site. As noted above with respect to the principle of allowing build-to-rent apartments on the site, occupation of the development would need to be restricted until such time as access from the southern end of the site to a fully operational Brennanstown Luas stop is available.

13.3.12. According to the applicant's Traffic and Transport Assessment, Luas services operate every nine minutes in a northbound and southbound direction during morning peak hours from the Carrickmines Luas stop, which I am satisfied would be a high-frequency service based on definitions within the Sustainable Settlements Guidelines and the New Apartment Guidelines. The applicant has also provided a Luas Capacity Report (appendix D to the Traffic and Transport Assessment) calculating spare capacity on this Luas greenline, with the applicant asserting that existing and future passenger demand arising from the development during peak periods would feature 40% capacity on northbound services between the Brennanstown Stop and Sandyford, with capacity dropping to 22% between Sandyford and the city centre. Measure LRT9 of The Transport Strategy for the Greater Dublin Area 2022-2042 sets out that during the period of this strategy, it is intended to deliver significant additional capacity on the Luas Green Line through the provision of additional fleet and necessary infrastructure to meet forecasted passenger demand.

13.3.13. An Taisce assert that cumulative development would be likely to create capacity issues on the Luas greenline and consultants for observers refer to overcrowding on greenline Luas services with additional capacity issues likely to arise on the Luas greenline based on units within the Cherrywood SDZ. Parties to the application, including TII, have not provided any alternative figures or substantive evidence to demonstrate that the present greenline Luas services are at capacity, and the information provided by the applicant acknowledges the potential future capacity issues and provides a reasonable demonstration that the greenline Luas would not operate at capacity arising from the subject proposed development. The information

presented indicates available high capacity in the greenline Luas service, including capacity to serve the proposed development.

#### Location Category

- 13.3.14. It would be a 1.2km walk from the application site entrance to Cabinteely village, the closest local neighbourhood centre to the site. The Park shopping centre is located further to the north, a 1.4km walk through the Carrickmines Wood development and Cabinteely Park. I do not consider the context of the site relative to other local services or public transport, including distance or walk time from Carrickmines Luas stop, Cabinteely village and The Park local neighbourhood centre, justify densities of greater than 50 units per hectare on the application site based on the provisions of the Development Plan.
- 13.3.15. In their application documentation the applicant states that safe and convenient access would be provided and available from the southern boundary of the site to the Brennanstown Luas stop. TII state that occupation of the development should not occur until matters pertaining to passenger and service access to the Brennanstown Luas stop has been addressed and the stop is operational. Despite the Luas stop infrastructure being in place, TII consider the proposals premature pending resolution of passenger and service access to this Luas stop. As noted below when assessing matters relating to the proposed layout of the development, an agreement and resolution of access to the Brennanstown Luas stop could be readily achieved between the developer and TII as a condition in the event of a grant of permission. Notwithstanding this, to safeguard the provision of adequate transport services in justifying a density of greater than 50 units per hectare on the application site, occupation of the proposed build-to-rent apartments should be restricted until Brennanstown Luas stop is operational.
- 13.3.16. Table 3.8 of the Sustainable Settlements Guidelines defines lands around existing or planned high-capacity public transport nodes or interchanges as including lands within 1km-walking distance of an interchange or node that includes DART, high-frequency commuter rail, light rail or MetroLink services, or lands within 500m walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop. Based on the proximity and accessibility criteria referenced above, in particular the proximity to Brennanstown Luas stop, I am satisfied that the application site can be

considered to fall into the category of a site located within an urban neighbourhood of Dublin city. Table 3.1 of the Sustainable Settlements Guidelines states that it is a policy and objective for net densities in the range of 50 to 250 units per hectare to be supported in locations such as this. The proposed development is therefore within the range of densities allowed in the Sustainable Settlements Guidelines for this site. Notwithstanding this, based on the refining criteria within the Sustainable Settlements Guidelines, which clarifies the need to consider amongst other factors the number of public transport options available, I am satisfied that the provision of other existing and planned public transport services within the immediate and wider environs of the site would not support densities at the higher end of this range for the application site.

- 13.3.17. According to the New Apartment Guidelines, 'central and/or accessible urban locations' include sites within reasonable walking distance (i.e., less than ten minutes' walk or 1km distance) from a high capacity urban public transport stop, such as Luas, or sites within easy walking distance (less than a five minutes' walk or 500m distance) from high-frequency urban bus services. I am satisfied that based on the details presented and available, as well as scope to limit first occupation of the units by condition, the future occupants of the proposed development would be a reasonable walking distance from a high-capacity urban public transport stop at Brennanstown Luas stop.

#### Density Conclusion

- 13.3.18. The statutory plan for this area sets out definitive minimum densities of greater than 50 units per hectare for a site in this context, while highlighting the need to have regard to the density provisions outlined within the New Apartment Guidelines and the revoked Sustainable Residential Development Guidelines. I am satisfied that the provision of a residential development on this site higher than the surrounding densities is acceptable in principle in the context of the provisions of the New Apartment Guidelines, the Sustainable Settlements Guidelines and the statutory plan for the area, as discussed above. Furthermore, the proposed development would not materially contravene the density provisions in the Development Plan.
- 13.3.19. The Planning Authority considered the density of the development to be unacceptable based on the manner in which the proposals address safety concerns



and infrastructural deficiencies along Brennanstown Road, and the impact of the development on the setting and visual amenity of Barrington's Tower. These matters are considered in sections 13.4 and 13.5 respectively below, when assessing the impacts of the development on access arrangements and architectural heritage.

#### **13.4. Design, Layout & Access**

- 13.4.1. The proposed access arrangements for the development, as well as the layout and design, are considered in this section, with the appropriateness of the building heights considered under section 13.6 below.
- 13.4.2. Sections 4.2.1 and 4.4.1 of the Development Plan set out the key guidance documents in relation to the primary concepts and policy objectives shaping new urban residential developments in Dun Laoghaire-Rathdown, including reference to the DMURS and the revoked Sustainable Residential Development Guidelines and the accompanying Urban Design Manual. The urban design and placemaking provisions set out in the Sustainable Settlements Guidelines need due consideration for this element of my assessment. Policy objective PHP44 of the Development Plan requires a statement to outline how the subject proposals respond to urban design criteria. The applicant adhered to this by setting out the key constraints and influences in developing the site within an Urban Design Report, with reference to the immediate and wider site context, including Carrickmines Luas stop, topography, trees and hedgerows, the provisions of the Development Plan, access points and the Protected Structure on site. Alternative development layouts considered as part of the initial design process are detailed in the Urban Design Report.

##### Design

- 13.4.3. The proposals would feature a northern and a southern character area, split by a wedge of open space surrounding the Protected Structure. The northern character area features two apartment blocks of five storeys aligned perpendicular and setback from the roadside frontage, with a gated residents' pedestrian access route and communal space separating these blocks. A retail unit and a childcare facility would be situated in this northern area adjacent to the vehicular access and a set down area. A public access route would also be provided off Brennanstown Road following the eastern site boundary before terminating at the Luas line corridor. The

apartment blocks in the lower southern character area would feature heights ranging from six to ten storeys above surface level. These southern blocks would be aligned in a formal north-south axis, separated by communal courtyards and flanked along the site perimeter by linear strips of public open space.

- 13.4.4. According to the applicant, the proposed landscaping for the scheme acknowledges the challenging topography of the site and provides opportunities to create contrasting character areas and interesting public and communal open space. It is also asserted that contrasting brick and render colours will be spread throughout the development to maintain distinctiveness and variety, whilst promoting character areas where they co-reside.
- 13.4.5. In relation to the proposed buildings, I note that they would feature elevations for passive surveillance purposes, with regular scales and proportions and with a consistent, cohesive architectural language used throughout the scheme. In addition to creating distinctiveness and variety, the applicant asserts that the choice of materials was influenced by their durability and maintenance requirements. The use of brick as the primary material is asserted by the applicant to be in response to neighbouring properties. Render finish is proposed to the buildings, a material that tends to discolour overtime if not regularly maintained. This material would primarily be used to define upper-floor levels and to finish the internal courtyard walls that do not face the public realm. The applicant's Building Lifecycle Report acknowledges the need to maintain this material. Accordingly, I am satisfied that this limited use of render would be appropriate. I am satisfied that the limited palette of contemporary quality, robust and low-maintenance materials that is proposed in the development, including variety in the brick finishes to individual apartment blocks would be appropriate in creating a sense of place. Final details of materials can be addressed as a condition in the event of a grant of planning permission for the proposed development.

#### Layout

- 13.4.6. The form and layout proposed would appear relatively consistent across the northern and southern character areas with the increase in heights reflecting changes in topography, as well as the most sensitive boundaries. I am satisfied that this would appear a reasonable approach to take from an urban design perspective. The

allocation and distribution of open space surrounding the Protected Structure would suitably break up the northern and southern character areas within the development. The open space provision within the northern character area would also provide for an appropriate separation between blocks A/B and C/D, while also affording views towards the tower.

- 13.4.7. The bulk of the development would be located within the southern character area. Notwithstanding scope to utilise differing materials to differentiate the southern apartment blocks, there would be very limited variety in the scale and overall appearance of these blocks, and given their tight clustering with reduced separation distances when compared with the blocks to the north, the cumulative appearance of the blocks when moving through the southern area would be unlikely to provide substantive transition and create a sense of place, with a heavily urbanised view being formed along the eastern side of the site, including along the shared-surface access route. The application CGIs do not pick up on these views, as they primarily focus on the open area surrounding the Protected Structure. I accept that the landscaping proposals provide a creative means of addressing the alternating topography moving through the site, however, these low-level measures alone would not sufficiently address the limitations imposed by the tight clustering of buildings within this southern character area. This is best visualised on the contiguous section CC (drawing no. BRT-1-02-ZZZ-ZZZ-DR-RAU-AR-3001). Blocks E and F extend for a length of almost 100m along the access road, and while a 10m gap is proposed between these blocks, this would only provide a view into block G of similar scale, forming a monolithic cluster of buildings along this relatively narrow 4.5m-wide shared-surface route (see the contiguous sections D-D and E-E on drawing no. BRT-1-02-ZZZ-ZZZ-DR-RAU-AR-3002).

#### Access - General

- 13.4.8. The Sustainable Settlements Guidelines refer to well-connected places, accessible by sustainable modes as being a key indicator of quality design and placemaking informing the development of settlements, neighbourhoods and / or individual sites. The Guidelines also promote sustainable and efficient movement as part of the design of well-connected neighbourhoods, with policy and objective 4.1 of these Guidelines requiring the approach, principles and standards of DMURS to be

implemented as part of an integrated approach to quality urban design and placemaking.

- 13.4.9. The proposed development would feature a gated-residents' pedestrian access and an open vehicular and pedestrian access off Brennanstown Road to the north, while a pedestrian access to the south would be provided with the adjoining Luas line corridor. There are a number of projects that could potentially coincide with this proposed development to improve access to this site, including the opening of the Brennanstown Luas stop, a traffic management scheme for Brennanstown Road and the undertaking of the Cherrywood Green Routes Network. Under the proceeding subheadings I consider whether the proposals would feature suitable access and / or integrate with and address in an appropriate manner these projects and the immediate area.

#### Access – Greenway Route

- 13.4.10. The observers assert that the proposals would be premature pending the upgrade of pedestrian and cycle infrastructure upgrade and TII note that a connection to the Cherrywood Green Routes Network has not been provided. The alignment of the Cherrywood Natural Greenspace Green Route referenced by the applicant in their Urban Design Report, does not reflect the precise alignment of the greenway route permitted by the Planning Authority in June 2022 (DLRCC ref. PC/CSDZ/013/2022), although the applicant's Landscape Design Statement (p.15) does appear to acknowledge the precise location of the permitted greenway.
- 13.4.11. The Cherrywood Green Routes Network featuring a greenway cutting under the Luas line directly to the south of the site and connecting into the Cherrywood SDZ and lands to the east of the site, including Lehaunstown Lane leading to the northeastern end of Brennanstown Road, could potentially enable an alternative means of pedestrian access between the site and the Cabinteely village area. This greenway network would also tie in with future developments in the Cherrywood Planning Scheme SDZ area. The applicant indicates a potential connection to this greenway infrastructure, however, it is unclear how the connection would be made, as it would appear to require access across third-party lands, an issue which the applicant acknowledges in their Landscape Design Statement. Furthermore, there is a lack of definitive timelines with respect to the delivery of this project.

Consequently, there is not sufficient information available or on the file to demonstrate that the access to the south of the site can connect into the permitted local greenway network.

#### Access - Brennanstown Luas Stop

- 13.4.12. Observers to the application and TII object to the development on the basis of it being premature pending the operation of services from the Brennanstown Luas stop. The Elected Members also refer to a lack of definitive timelines for the opening of this Luas stop. As stated above with regard to the Luas stop, given the advanced position regarding supporting infrastructure to enable the Luas stop to operate, I am satisfied that it would be reasonable for the development to proceed with a restriction on occupancy until access is available to this operational Luas stop.
- 13.4.13. The Sustainable Settlements Guidelines require the urban structure of new development to strengthen the overall urban structure and create opportunities for new linkages where possible. In principle and in addition to the Cherrywood Green Route Network, the access to the Luas stop would enable a new pedestrian link between lands on either side of the Luas line.
- 13.4.14. TII state that it is unclear how the development would connect with the Brennanstown Luas stop. The applicant asserts that the pathway leading to the southern boundary of the site would provide a formal universal access to the Brennanstown Luas stop. At present a 150m-long Luas line walkway that is paved and enclosed by railings, is situated between the application site boundary and the Luas stop platforms. A 1.3m-high railing is situated on the southeast corner boundary with the application site, restricting access to this walkway. A section of this railing would need to be removed to enable the connection to be made to the walkway, and this would appear readily achievable.
- 13.4.15. The applicant's boundary treatment plan (drawing no. 1815\_PL\_P\_05\_IFP) does not suggest any boundaries between the Luas line corridor and the application site, despite a green fence being positioned on this boundary at present. TII indicate that the proposed site layout, landscaping and lighting in this immediate area to the Luas line do not have regard to the presence and function of the Luas with tree planting conflicting with existing foul and surface water drains in this area. The applicant's Quality Audit document, also flagged an issue regarding the layout of the

development in this area, noting that it is unclear if sufficient space would be available for vehicles to make a U-turn at this point. The swept-path analysis drawings submitted with the application indicate that there would be some scope for this, albeit dependent on the number of vehicles occupying this area.

- 13.4.16. While I would accept that some clarity is needed with respect to the boundary treatment and landscaping along the Luas line corridor of the site, I am satisfied that these are matters that could be refined as conditions in the event of a grant of permission for the proposed development, and the information available suggests that there would be reasonable scope for the necessary pedestrian access to the Luas stop to be undertaken as part of the proposed development. Notwithstanding this, it is vital that the proposals fully acknowledge the fact that the proposals would create a vehicular, cycle and pedestrian access to a new Luas stop and the subject proposals would need to be cognisant of this, as is explored further below.

#### Access - Brennanstown Road

- 13.4.17. Brennanstown Road would provide the primary vehicular, pedestrian and cycle access off the local road network to the site. Brennanstown Road measures 1.9km in length and runs between the junction of Glenamuck Road to the northwest of the application site, and Cabinteely village to the northeast of the application site. It features carriageway of varying widths, with numerous access roads and residential entrances, and stretches featuring footpaths of varying widths and an absence of footpaths. Observers assert that the road suffers from daily traffic congestion and is a rat-run of limited width, poor alignment and visibility, absent of cycle ways, set-down areas and safe crossing points, featuring substandard and omitted stretches of footpaths, vehicular weight restrictions, limited lighting and rural lane characteristics.
- 13.4.18. Observers assert that the proposed development would be in material contravention of SLO 73 of the Development Plan aiming to limit development along the Brennanstown Road to minor domestic infills and extensions until a Traffic Management Scheme for the area has been completed and its recommendations implemented. The subject proposals would clearly not fall into the category of a minor domestic infill or an extension. The applicant addresses this issue in their Material Contravention Statement should the Board consider a material contravention to arise in this matter. Section 5.8 of the Development Plan outlines

that the SLO 73 traffic management scheme for the Brennanstown Road area will aim to provide improved facilities for vulnerable road users, reduce through traffic and traffic speeds, improve safety, and ensure boundary treatment and landscaping solutions mitigate impacts on the sylvan setting of Brennanstown Road.

13.4.19. The proposals would replace the two existing vehicular accesses serving Barrington Tower and Winterbrook, with a new four-arm signal-controlled junction to be installed with pedestrian crossing points. A pedestrian crossing with raised table would also be installed along the western end of the site frontage. Upgraded access would also be facilitated into the Appledore property to the northern side of Brennanstown Road, presumably to allow for future redevelopment of these lands. The boundary wall along the southern side of the roadside frontage to the application site would be removed and a 2m-wide footpath would be installed on both sides of the road for almost the entire frontage of the site. Mature trees and planting would be felled and removed, with replacement planting to be provided and a revised boundary treatment comprising a random rubble wall, intersected with piers and topped by railings.

13.4.20. The Planning Authority consider the subject proposals to be contrary to SLO 73 of the Development Plan and premature based on a perceived lack of adequate, safe pedestrian and cycling facilities along Brennanstown Road, which would endanger public safety by reason of traffic hazard or obstruction of road users and others. These views are reflected in comments from the Elected Members of the Planning Authority and many of the observers' submissions. Permission to redevelop the Doyle nurseries site (ABP ref. 305859-19) provides for improvements to a 450m stretch of the northeastern end of Brennanstown Road leading to Cabinteely village, while the recently completed Brennanstown Woods development (ABP ref. 301614-18) has resulted in improvements to a 250m stretch of the western end to Brennanstown Road. Observers assert that this does not facilitate improvement of the entire length to Brennanstown Road, including the stretch absent of footpaths.

13.4.21. The proposed development, featuring crossing points and footpaths, as well as a new signalised traffic junction, would clearly improve facilities for vulnerable road users, while reducing traffic speeds and improving safety over the 130m stretch of upgraded road. I am not aware of proposals to improve the 800m stretch of Brennanstown Road between the application site and the aforementioned Doyle

nurseries site, which includes a section of road absent of footpaths and sections featuring very narrow footpaths. As highlighted throughout the application documentation, including the EIAR and the Planning Report (table 10), this local neighbourhood centre is the closest walk time to the application site and features numerous services that would attract users from the proposed development. Furthermore, the provision of an access to the Luas greenline services would also encourage further movements along this road. At present there are deficiencies along Brennanstown Road to enable safe access to Cabinteely village. In considering the alternative options I note that there are no definitive details for completion of Cherrywood Green Routes Network or how the proposals would tie into to this. I acknowledge that there are other neighbourhood centres existing in the area, but these are not the most convenient centres to the application site, including Cherrywood town centre, which would be reliant on access by Luas services operating at greater than every nine minutes outside of peak hours. There are other proposals for local retail services in the immediate Cherrywood area south of the Luas line, but there is nothing definitive in relation to these proposals.

13.4.22. As noted in the applicant's Traffic and Transport Report, the proposed development, including residential, retail and childcare elements, would result in additional traffic to the area, with 240 vehicular movements into and out of the site during the morning peak hour alone. Consequently, the proposed development would certainly not reduce traffic along Brennanstown Road. As highlighted by the applicant in their Urban Design Report, the access that would be provided to the Luas stop would also be likely to attract visitors to the site from outside the development. Once operational the Brennanstown Luas stop would become the most convenient Luas stop for commuters on the greenline route from areas to the east of the site along Brennanstown Road, including the area immediate to Cabinteely neighbourhood centre and new developments in this area. The applicant's traffic modelling does not address the extent of traffic, vehicular, cycle, pedestrian or otherwise, that would be likely to be attracted into the site to avail of these Luas services. In relation to another aim of SLO 73, I also note that the additional traffic that would be generated would not necessarily fall into the category of 'through traffic' travelling the full length of Brennanstown Road from one end to the other.



13.4.23. Mature trees and hedgerows set inside stonewall boundaries and screening views of many of the residences from the public realm, form an integral element of the streetscape along Brennanstown Road. The applicant proposes the removal of all the trees along this site frontage. These trees are described by the applicant as being in poor or good condition based on the tree constraints plan. The Planning Authority object to this element of the project asserting that it would not be in keeping with the sylvan character of an architecturally-sensitive area. I have reviewed the alternative approaches for the layout of the site, as presented in the EIAR and the Urban Design Report, which do not indicate any layouts that could have facilitated the boundary trees on this frontage being maintained. It is not clear whether the alterations to the road solely preclude scope for the trees to be maintained. The layout options do not explore scope to utilise a footpath inside the existing stonewall boundary and the treeline, despite a path being proposed running parallel with the road and set approximately 6m inside the roadside boundary within a residents' communal area. Notwithstanding this, the boundary treatment proposals along Brennanstown Road would follow the recently permitted and constructed Brennanstown Wood development along this road, with features such as hedgerows, trees and stonewalls removed and replaced with boundary walls featuring railings backed by tree planting. As such, I am satisfied that the proposals would maintain the sylvan setting along Brennanstown Road.

13.4.24. I understand that Brennanstown Road Traffic Management Scheme was not agreed for approval by the Elected Members of the Planning Authority in 2017 (DLRCC ref. PC/IC/01/16) and according to observers the road has not been subject to improvements or a traffic management scheme necessary to enable construction of the development. It is not clear what area on Brennanstown Road the traffic management scheme is required to cover based on the Development Plan. Arising from the assessment above, the traffic management measures set out as part of the proposed development would improve facilities for vulnerable road users, reduce traffic speeds, ensure boundary treatment and landscaping solutions mitigate impacts on the sylvan setting of Brennanstown Road and would not increase through traffic. While some improvements to road safety would arise based on the works proposed, owing to the increased traffic arising from the proposed development road

safety would not be improved along the entire stretch of Brennanstown Road, with no realistic or definitive alternative solutions available or presented to overcome this.

- 13.4.25. Given the condition of Brennanstown Road and in the absence of a reasonable alternative safe means of accessing the site from the nearest and most convenient local neighbourhood centre to the east of the site in Cabinteely, the increased traffic arising from the proposed development would result in an increased risk to the safety of road users and the general public along the stretch of Brennanstown Road to the east of the site absent of a footpath. The applicant asserts that the upgrade of Brennanstown Road is likely to occur in a piecemeal manner over time through planning permissions, as opposed to a single traffic management scheme. I am not aware of any permissions to develop the stretch of road deficient of footpaths and I note that while this may have been a consideration with respect to the Doyle nurseries development, this permitted scheme could avail of a pedestrian path along Brennanstown Road connecting directly with Cabinteely village. Accordingly, the increased traffic arising from the proposed development onto a substandard section of Brennanstown Road would fail to comply with SLO 73 of the Development Plan as it would compromise road safety, and I am satisfied that the proposed development should be refused permission for this reason. Consequently, given the failure to improve road safety, one of the stated aims of SLO 73, I am satisfied that it would be reasonable to consider that the proposals are in material contravention of SLO 73 of the Development Plan.

#### Internal layout

- 13.4.26. The road construction details (sheet 2 of 2) (drawing no.BRR-WM-ZZ-XX-DR-C-P019) illustrates the proposed access road intended to run through the development, as well as the spurs and parking off this road. The internal access road off Brennanstown Road would feature a 6m-wide carriageway leading south as far as the entrance to the basement car park and the shared-surface route. The access road would feature a loop close to the entrance, which the applicant states would facilitate splayed parking spaces and a set-down area intended to serve the childcare facility, retail unit and Luas stop. Limited surface-level car parking is proposed as part of the development. The shared-surface route leading south to the Luas line corridor, would be 4.8m in width and would accommodate pedestrians and cyclists, as well as vehicles, including service vehicles. The location of the retail unit

and childcare facility would appear reasonable and readily accessible from Brennanstown Road, as well as ensuring the associated commercial traffic would not be required to travel through extensive residential areas.

- 13.4.27. Should permission be granted for the development, the Transportation Planning section in the Planning Authority recommended attachment of various conditions relating to pedestrian and cyclist connectivity and movement across the site, access, and the alignment of Brennanstown Road. The applicant asserts that the overall roads layout would discourage vehicles from travelling at high speeds, while featuring good permeability for cyclists and pedestrians across the development. By creating a connection with the Luas stop, the applicant asserts that the development would create new routes and increase permeability through the site.
- 13.4.28. The proposals would not feature any controls limiting vehicular access along the shared-surface route leading southwards to the Luas line, with perpendicular car parking spaces proposed along this shared surface to the west side of proposed block H, with the route continuing to the western side of block I. Carriageway widths of 4.8m are allowed for in DMURS for shared surfaces (home zones), which the subject shared surface route would generally comply with, although at one point buffer zones for two disabled car parking spaces overlap this route and it also narrows below the required width at the entrance to the Luas line walkway. The application also proposes 26 stacked bicycle parking spaces for Luas commuters close to the access to the Luas line walkway.
- 13.4.29. TII assert that the proposed site layout, landscaping and lighting do not have regard to the presence and function of the Luas stop, including pick-up and turning areas for vehicles, accessing the services and the substation. In my opinion, other than provide a link towards the southern boundary and provide cycle and car parking, the application does not fully address the implications of the proposals creating a new destination on the site that would be likely to draw traffic from outside the development itself. As stated above, the traffic modelling undertaken by the applicant does not account for vehicular traffic associated with the Luas stop becoming a destination that would be the most convenient access to the greenline Luas services for a substantive catchment. It is unclear what extent of traffic could be attracted into the site and whether or not sufficient parking, set-down and turning areas are being provided as part of the development. Furthermore, the development

layout does not address how vehicular traffic would be managed to limit excess trips along the shared-surface route leading to the Luas stop. It would be unlikely for those dropping off or picking up Luas passengers to use the set-down area by the front of the site, if the 300m-long journey can be made as far as the Luas line. As such, the layout presented does not appear to suitably segregate the street network leading to the Luas stop with vehicles, cyclists and pedestrians sharing a route of limited width.

- 13.4.30. Conditions to address this, including bollards or a similar means restricting vehicular access along this route, would be inappropriate to attach, given the lack of detail regarding the extent to which the development would attract traffic into the site, and the lack of details regarding the extent of parking, pick-up / drop-off and turning areas that would be required, and the potential material implications for other factors, including the restriction of access to surface-level car parking on this shared-surface route. Arising from the above, I am satisfied that the development layout and the proposals do not effectively respond to the fact that access to an operational Brennanstown Luas stop would form a primary destination as a result of the connectivity created across the site, and the proposals would fail to adhere to provisions of the DMURS supporting segregated street networks that adequately account for the likely number of trips generated for each destination, which policy and objective 4.1 of Sustainable Settlements Guidelines require to be adhered to as part of an integrated approach to quality urban design and placemaking.

#### Public Open Space

- 13.4.31. Observers assert that the proposed provision of public open space would materially contravene the provisions of the Development Plan, while also referring to the need for additional public open space fronting Brennanstown Road. In line with policy and objective 5.1 of the Sustainable Settlements Guidelines, table 12.8 of the Development Plan sets out a requirement for 15% of sites to be provided as public open space in new residential developments, which the applicant considers to amount to the need to provide 5,700sq.m of public open space on the application site as part of the subject development. The Planning Authority consider that this would be complied with via provision of 9,370sq.m of functional and landscaped spaces, as detailed in the applicant's landscape drawings and Landscape Design Report, including playground areas, natural play areas, kickabout area, cascading

garden, amphitheatre, seating areas, plazas and lawns. Separate communal and childcare play spaces would also be provided. The applicant's Daylight, Sunlight & Overshadowing Report illustrates and calculates that the proposed public open space would receive sufficient sunlight levels based on the minimum targets set in the BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice'.

13.4.32. I am satisfied that the proposed provision of public open space as part of this development would be appropriate, and it would not materially contravene the provisions of the Development Plan.

#### Trees & Hedgerows

13.4.33. By use of a 'tree' symbol, the maps accompanying the Development Plan identify an objective 'to protect and preserve trees and woodlands' on site approximately 25m to the north of Barrington Tower. There is also a tree symbol on the zoning maps associated with the Glendruid woodland area adjoining to the southeast of the application site. I am not aware of any tree preservation orders applying to this site. The Chief Executive Officer from the Planning Authority acknowledges the objective to protect and preserve trees on the site, while noting the extent of tree removal proposed. The Parks Department in the Planning Authority list an array of conditions with respect to landscape plans, tree bonds and tree protection. The observers assert that the extent of trees and green areas to be removed would be excessive and insensitive, and that it would not be in the interests of biodiversity or the setting and character of the area. It is also asserted by observers that the failure to preserve and protect trees would materially contravene the tree and woodland protection and preservation objective relating to the site.

13.4.34. Section 12.8.11 of the Development Plan addressing 'existing trees and hedgerows' requires new developments to have regard to objectives to protect and preserve woodlands, clarifying that the tree symbols on the zoning maps may represent an individual tree or a stand of trees, and, as such, they do not represent an absolute commitment to preservation. Decisions regarding preservation will be subject to full arboricultural assessment, as well as other objectives. Commensurate planting or replacement planting is required under the Development Plan provisions where development results in tree loss.

- 13.4.35. The applicant identified 386 trees and hedgerows within their Tree Survey and Arboricultural Assessment (table 1), almost half of which are Monterey cypress or Scots pine. Other species identified include beech, sycamore, larch, silver birch and ash. A total of 84% of the trees were found to be in early mature or mature state, and 60% of the trees were considered to be in fair to good state. The survey information concludes that 39% of the trees fall into category 'B' trees, which are trees of moderate quality, while 55% were considered to be category 'C' trees, which are trees generally of poor-quality and limited value. The remainder of the trees were categorised 'U' by the applicant's arborist, which are trees of particularly poor quality, dangerous or diseased, and offering no realistic sustainability.
- 13.4.36. The applicant refers to the trees situated in the general location of the Development Plan tree protection and preservation objective, as consisting of a deteriorating group of Monterey cypress, one of which was surveyed as being in good condition. Surveying by the applicant of ground conditions along the eastern boundary with the Glendruid woodland complex was stated by the applicant not to reveal substantive tree-root systems undercutting the stonewall boundary into the application site.
- 13.4.37. From the outset I note that a very substantive proportion of the trees included within the applicant's tree survey are located in adjoining properties, including the applicant's other immediate properties, Appledore and Áras Eibhear. Consequently, the vast majority of the 231 trees and two hedgerow groups that the applicant claims to be maintaining as part of the proposals are not actually located on the application site. As acknowledged by the applicant in their Tree Survey and Arboricultural Report, the proposed development works are extensive and, as such, for reasons relating to site efficiencies the applicant asserts that there is no potential to maintain trees within the central area, including the group of Monterey cypress trees broadly in the location of the trees identified for protection and preservation in the Development Plan. The applicant also states that it would only be existing trees along the site boundaries that would remain. Review of the applicant's tree protection plan indicates that the protection measures on the eastern and western boundaries of site primarily address trees located on the adjoining properties, with only three trees remaining as part of the proposals on the application site and these would be adjoining 18 Brennanstown Vale. As such, extremely limited perimeter or central trees are proposed to be maintained on the application site. The approach

employed by the applicant in describing the alterations arising from the proposed development does not accurately portray the fact that the site would be almost fully cleared of trees and hedgerows, despite many of these trees and hedgerows being identified as being of category B moderate to good condition.

13.4.38. I accept that the applicant has referred to competition between trees as impacting on some trees and the implications of removing one tree as potentially weakening the longevity of other trees. Many of the trees proposed for removal are in groups and the application proposals do not show any regard to maintaining trees of greatest value on site, and in some manner maintaining the character of the area or attempting to preserve and protect the trees broadly in the vicinity of the tree protection objective, including individual trees or groups of trees. Furthermore, I acknowledge the applicant's reference to various trees as being susceptible to storm damage, however this is always a concern for trees. I also acknowledge the tree planting proposed as part of the landscaping masterplan. A review of the plans and documentation submitted would suggest limited consideration to preserve and protect the extensive available tree cover across the site, and while I would accept overarching planning principles to encourage sustainable development and efficient use of urban land, including compliance with density targets, due regard must be given to the natural environment and the specific objectives of the Development Plan applying to this site. While measures are being employed to protect Barrington Tower there would appear to be little or no attempt by the applicant to design the development cognisant of the Development Plan objective to protect and preserve trees or woodland within the application site.

13.4.39. Given that the tree symbols do not indicate an absolute commitment to preservation of trees, I am satisfied that it would be unreasonable to conclude that the proposed development would materially contravene the tree and woodland protection and preservation objective of the Development Plan relating to the site. Notwithstanding this, based on the information presented and available, I am satisfied that the applicant has not undertaken all reasonable measures to address the potential impacts to the trees to be protected and preserved and maintained on site in order to adequately address the tree / woodland preservation objective in the Development Plan for this site. In conclusion, the proposed development should be refused permission to reflect this poor design and layout element of the development.

### Public Lighting

13.4.40. Public lighting details, including the specifications and illumination levels for the lighting columns intended to be installed as part of the proposed development, are identified within the Site Lighting Report. A drawing identifying the potential luminance levels for each routeway within the site is also provided (drawing no.C975 OCSC XX XX SK E 0001 S4 Revision P04). The applicant's Site Lighting Report and Ecological Impact Assessment states that bat-sensitive lighting would be incorporated into the proposals. As required by the Planning Authority, I am satisfied that further details of public lighting serving the development should be provided in the event of a grant of planning permission in line with the relevant technical specifications of the Planning Authority and in order to address the matters raised by TII with respect to the interface with Luas line infrastructure.

### Conclusion

13.4.41. From an urban design perspective, concerns arise regarding the overall scale of proposed apartment blocks onto the shared-surface route along the southern character area within the development, the extent of tree loss across the site relative to the Development Plan objective to protect and preserve trees on the northern part of the site and the proposed layout, including street network, which does not sufficiently address the new Luas stop destination that would become accessible from the development. I am satisfied that the proposed development should be refused permission as the design and layout of the development would fail to implement the provisions of the DMURS, which policy and objective 4.1 of the Sustainable Settlements Guidelines require to be adhered to as part of an integrated approach to quality urban design and placemaking. Furthermore, by not providing a traffic management solution that would facilitate safe movement for pedestrians between the site and the nearest and most convenient local neighbourhood centre in Cabinteely village, the proposed development would materially contravene SLO 73 of the Development Plan.



## 13.5. Impact on Cultural Heritage

### Barrington Tower

- 13.5.1. Heritage and conservation policy objectives are set out in chapter 11 of the Development Plan, including policy objective HER8 addressing various aspects of work directly and indirectly affecting Protected Structures, including the need to ensure that such works are appropriate, that they respect the form and structural integrity of a Protected Structure and that they retain the relationship between a Protected Structure and any designed landscape features, and respect views and vistas from within the grounds of the structure. Policy objective HER8 also references the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.
- 13.5.2. The house known as Barrington Tower is referred to by the applicant as a pastiche, 20<sup>th</sup>-century house, which was subject to extensive fire damage and is in poor state of repair, with photographs included with the application to verify same. I am satisfied that based on the details available, including reference within the Development Plan and NIAH regarding the historical tower or folly structure, the 20<sup>th</sup>-century house does not form part of the Protected Structure (RPS ref.1729).
- 13.5.3. Observers object to the development based on the impact of the proposed apartment blocks on the character and setting of the Protected Structure. The observers' concerns primarily relate to the height and scale of the proposed apartment blocks closest to the Protected Structure, which they assert to as having a highly overbearing appearance on the Protected Structure, which would diminish its historical value. As the tower was constructed to avail of views towards Glendruid valley and woodlands, and the hills to the south, the observers assert that the proposals would impact on the original function of the tower to avail of these views. The closest blocks to the Protected Structure would be the five-storey blocks A/B and C/D, as well as the five-storey element to block E, which steps up to eight storeys. These blocks would all be approximately 18m to 20m from the tower. The potential future context for the relationship between the new blocks and the existing tower is best visualised via the applicant's CGIs 1 to 5 inclusive. According to the applicant, the Protected Structure is a key constraint in developing the site, with a 12m protected radius to be provided around the tower and building heights dropping

down closest to the tower to enhance its position. The Planning Authority consider the tower to form the most sensitive built heritage element of the development and they object to the visual impact of the development on the setting of the tower, asserting that blocks A/B and C/D would have an overwhelming impact on the tower that requires reduced building heights.

- 13.5.4. There are very limited views of the tower from the public realm, and views of the tower from within the site at present are restricted by the mature trees and steep topography, while also being compromised by the 20th-century house. The taller buildings within the scheme are proposed to be positioned moving away from the Protected Structure, which I am satisfied would be an appropriate design approach to take in these circumstances. The omission of the 20th-century house structure would serve to enhance the setting and character of the tower. Furthermore, the proposed landscaping buffering the tower would enhance its position further. The neighbouring building designs respond reasonably well to the setting of the Protected Structure, identifying it as the central feature serving the northern quarter of the development. Positioning of the tower within public open space and in view of Brennanstown Road would also serve to increase the awareness of the structure. I am satisfied that the separation distances and immediate proposed buildings heights would not be overly dominant or compete with the setting of this Protected Structure.
- 13.5.5. Observers raised concerns regarding the positioning and height of the apartment blocks to the south of the tower, as these blocks would restrict views towards the woodland and hills to the south. The proposed apartment blocks would no doubt limit views from the Protected Structure, although I note that these views are at present substantially restricted by mature trees within the site and I would not consider a restriction of views from the tower to substantively take from the setting or character of this Protected Structure.
- 13.5.6. A set of drawings has been provided for the tower, including floor plans (drawing no.05-60 P-100). This plan notes the intention to integrate bat boxes within the building, to install new windows and metal stairs, to fit a new handrail to the external steps, to fit new downpipes and hoppers and to replace the existing roof. A method statement for the various works is provided as part of the application Architectural Heritage Impact Assessment. The alterations to the structure would appear very much in character with the existing structure, while allowing for it being conserved as

part of the subject proposals. The floor plans indicate a quite limited floor area within the structure, due to the predominance of the stairway leading through the tower, therefore, the future use of the tower is very limited and the information presented suggests that it would continue to be capable of being used for its original purpose.

- 13.5.7. I am satisfied that the position, scale, design and appearance of the proposed buildings would be appropriate, would respect the form and structural integrity of the Protected Structure and would enhance the setting of this Protected Structure improving views of the tower itself. Accordingly, I am satisfied that the proposed development would serve to conserve and enhance the setting of the Protected Structure on site and would not contravene policy objective HER8 of the Development Plan.

#### Quaker Cemetery

- 13.5.8. The private burial ground adjacent to the south of the site is also included in the RPS (ref. 2066) where it is referenced as having opened in 1847. The observers refer to the burial ground as continuing to be in use and they object to the development overlooking this burial ground. Block F would be the closest of the proposed buildings to the cemetery, which is set within a wooded area adjoining to the southeast of the site. This block would be a minimum of 15m with the stonewall boundary to the cemetery complex, which would be maintained as part of the development. The applicant has indicated shrub to be cleared and that there are no substantive tree stands within the application site along this boundary. Landscaping measures are proposed to protect the trees marked 35 to 50 within the cemetery complex adjoining the site, which is screened by Scots pine, beech, Lawson cypress and sycamore ranging from 8m to 19m in height. Images provided by third parties do not show any trees inside the cemetery wall, however, the trees marked 35 to 50 would largely restrict overlooking from block F into the cemetery. I am satisfied that the proposed development would have very limited impact on the setting and character of the cemetery given the screening afforded by the mature trees, the scope for trees on the application side of the boundary to mature in time and provide additional screening and as overlooking of cemeteries would not be uncommon in an urban context.

## Archaeology

- 13.5.9. Policy objectives HER1 and HER2 of the Development Plan aim to protect and preserve archaeological sites. The application site is not located within an area of archaeological potential based on the Development Plan and it does not feature sites within the Record of Monuments and Places (RMPs). An archaeological assessment (EIAR appendix 14.2) was submitted as part of the application and this provides an overview of archaeological features and archaeological investigations undertaken in the immediate area, including a geophysical survey (EIAR appendix 14.1). It outlines historical reference to a former castle in the vicinity of Barrington Tower, although this was not identified during investigations on the site. The assessment also acknowledges the application site setting within a rich cultural heritage landscape. Further archaeological monitoring is proposed, and this can be requested as a condition in the event of a grant of planning permission for the proposed development.
- 13.5.10. The closest archaeological site is an enclosure and watermill (DU026-080001-2) located approximately 100m to the south of the application site. There is also a megalithic tomb / portal tomb / dolmen (DU026-007), which the observers assert to be aligned to point towards other landscape features. The observers object to the development on the grounds of its impacts on the RMP, including encroachment on the RMP and the restriction of views from the RMP towards other monuments. The proposed apartment blocks would be over 200m from the portal tomb monument and there are mature trees separating the monument from the application site. While some elements of the apartment blocks would be visible from the RMP, this would be at a substantive distance, while the existing trees already serve to restrict views outside of the immediate environs of the portal tomb.
- 13.5.11. I am satisfied that given the present developed nature of part of the site and the information presented, the proposals to redevelop the site would not give rise to a situation that would preclude the granting of permission for substantive archaeological reasons and the proposed development would not be contrary to Development Plan policy objectives HER1 and HER2.

### Other Heritage Sites

13.5.12. Observers assert that Glendruid house and lodge formed part of the Glendruid estate, which should be carefully considered heritage features. These buildings are over 500m from the application site in a location where the proposed development would not be visible from, due to the intervening tree cover and existing structures, with no potential for substantive impacts to arise from the development on these features. Observers refer to the proposals as materially contravening the provisions of the Development Plan with regard to an ACA designation. The site is not within or proximate to an ACA, therefore, I fail to see how this could reasonably be considered to arise.

### **13.6. Buildings Heights**

- 13.6.1. The proposed development would feature a variety of building heights, with a maximum height of ten storeys where buildings would sit on lower-ground floor / basement structures. Blocks A/B and C/D along the northern side of the site would feature five storeys each, while blocks I and J on the western boundary would feature six and seven storeys respectively. Blocks F and H on the southern boundary would feature nine storeys, while the two blocks E and G directly to the north in a more central part of the site, would feature ten storeys inclusive of two lower-ground floor / basement levels. The tallest block, block F on the southeast boundary, would feature a roof parapet level of 99.4m, which would be approximately between 27m and 33m above the immediate surface level based on survey levels in the applicant's topographical survey drawing (no. BRT-1-02-SW-XXX-DR-RAU-AR-1000).
- 13.6.2. The applicant has provided contiguous section drawings (nos. BRT-1-02-ZZZ-ZZZ-DR-RAU-AR-3001 & 3002), as well as photomontages indicating the alterations in ground levels across the site and the proposed building heights relative to several existing buildings in the adjoining areas, although this omits the Luas service building adjoining the southwest corner of the site. The immediate area along the southside of Brennanstown Road and north of the Luas line and Carrickmines river, features low-rise housing with very modest heights of between one and three storeys. The Protected Structure on site features a height of approximately 12m above its immediate surface level. In the wider area the Brennanstown Woods development

features two to three-storey housing, as well as apartments blocks up to four storeys over a basement level. The permitted development on the Doyle nurseries site (ABP ref. 305859-19) situated on the eastern end of Brennanstown Road, would provide for blocks up to eight storeys. Neighbouring development proposals to the south of the Luas line (ABP ref. 313322-22) feature blocks up to five storeys, while the proposals on Glenamuck Road (ABP ref. 313341-22) feature blocks up to seven-storeys.

- 13.6.3. The Development Plan policy objective PHP42 not only aims to encourage high-quality design in all new development, it also aims to ensure that new development complies with the Building Height Strategy for the County, as set out in appendix 5 to the Plan. Policy objective BHS 1 of the Development Plan allows for increased building heights and taller buildings along public transport links, including locations within a 1km or ten-minute walk from a Luas stop. Such heights would be subject to the consideration of the impacts of the development on existing amenities and environmental sensitivities, the protection of residential amenities and the established character of an area. Buildings that would be two storeys or more taller than the prevailing building heights of an area would need to be considered against building-height, performance-based criteria set out in Table 5.1 of Appendix 5 to the Development Plan. Section 4.3.2 of Appendix 5 to the Development Plan states that new developments should respond to local character and protect and enhance the built heritage, and that new buildings should not have an adverse effect on a Protected Structure in terms of scale, height, massing, alignment and materials.
- 13.6.4. Observers assert that the proposed building height would materially contravene the provisions of the Development Plan, would not be justified by the public transport provisions and a reduction in heights is warranted with greater transition in building heights. The applicant addresses non-compliance with the Development Plan building height provisions in their Material Contravention Statement. Despite initially considering that the subject site would be capable of accommodating additional building heights, the Planning Authority subsequently concluded that it is not capable of accommodating the proposed building heights as the applicant had not demonstrated that the development would comply with the applicable performance criteria set out in table 5.1 of the Development Plan Building Height Strategy. In considering the proposed building heights, the Planning Authority asserted that they

would impact on the character of the area, including the Protected Structure, with reductions in building heights required to address their concerns and provide for greater transition in heights.

- 13.6.5. From the outset I note that the subject proposals would feature buildings in excess of two storeys more than the prevailing building heights of the area, therefore the proposed buildings would fall into the ‘taller building’ category. Furthermore, I am satisfied that the entire site is within a 1km or ten-minute walk from Brennanstown Luas stop and while this stop has been constructed but is not yet operational, policy objective BHS 1 does not differentiate between existing, planned, operational or constructed Luas stops. Consequently, the acceptability of the proposed building heights needs to be considered against the performance-based criteria in table 5.1 of the Development Plan Building Height Strategy, which refers to county-level, district / neighbourhood / street-level, site / building-scale and county-specific criteria. The Development Plan assessment criteria is similar to the development management criteria detailed under section 3.2 of Building Heights Guidelines.

#### County-Level Criteria

- 13.6.6. By focussing development in key urban centres and supporting national strategic objectives to deliver compact growth in urban centres, I am satisfied that the proposed development meets the requirements set out in item (a) of the criteria listed under this section of table 5.1. As referenced above, subject to a condition curtailing occupancy of the development until such time as the Brennanstown Luas stop is operational, the proximity to public transport services provisions under item (b) would be met.
- 13.6.7. Item (c) criteria relates to the appearance of the development and its ability to integrate into / enhance the character and public realm of the area, having regard to topography, cultural context and the setting of key landmarks. The Planning Authority asserts that the proposals would fail to properly integrate into the area with concerns expressed regarding the visual impacts on Barrington Tower and along Brennanstown Road and the Luas line. Observers consider the development to be out of character with the surrounding area. The applicant asserts that the height of the proposed development has been well considered with respect to its immediate surroundings and the site constraints, providing a sensitive transition in scale from

the SDZ to the south and the adjoining surrounding low-rise housing. As required, an Urban Design Report, a Quality Audit and a landscape and visual impact assessment (LVIA), have been submitted as part of the application, with the professional suitability of the LVIA practitioners outlined in the EIAR. The visual impact assessment undertaken below in section 14.14 concludes that the proposed development would have negligible to moderate visual impacts when viewed amongst the surrounding emerging urban profile, and, accordingly, the proposed development would not fail to integrate with the established character of this part of the city. As noted above, the Planning Authority considered the proposals as impacting on the setting and character of Barrington Tower, however, I am satisfied that the proposals would improve the setting of this structure by omitting buildings and allowing for the structure to be viewed in its entirety. I have raised some concerns with respect to the extent of tree removal across the site, although with the exception of the tree removal along Brennanstown Road, this would have limited impacts on the wider area.

- 13.6.8. Having regard to the provisions of item 1(d) of table 5.1, I am satisfied that protected views and prospects, as outlined in the Development Plan would not be adversely affected. I have also concluded above that the proposals would have negligible impact on the setting of the portal tomb. I am not aware of other infrastructural capacities identified in the core strategy attached to the Development Plan, as impacting on the development. Arising from the above, I am satisfied that the development would satisfy building height criteria at county level.

#### District / Neighbourhood / Street Level Criteria

- 13.6.9. With regard to the contribution of the development to the urban neighbourhood and streetscape, I note that the development would feature upgrades to elements of the road infrastructure along the Brennanstown Road frontage, as well as the provision of an area of public open space and a link to the Brennanstown Luas stop from the northern side. The applicant's Urban Design Report addresses the enclosing of space and the urban grain. Observers express concerns in relation to the proposed buildings appearing monolithic, and as noted above, I would share this concern with respect to the appearance of the development along the eastern side of the site, in particular blocks E and F onto the shared-surface route.



- 13.6.10. As noted above, the materials and means of ensuring that landscaping around the edges of the site would be maintained and protected would satisfy the requirements of items 2(c) and (j) of table 5.1. The tenure of the development is discussed in section 13.2 above, where it was accepted that it would not lead to an oversaturation of this housing type in the area, while the mix of residential units proposed would add to the mix of housing typologies in this area (see also section 13.8 below).
- 13.6.11. The proposals have sufficient regard to the proximity to neighbouring properties and in my view, it would not have excessively overbearing impacts on the amenity of neighbouring properties (see section 13.7 below) or along the public realm, particularly when considering the building boundary setbacks that would be achieved. With regard to the consideration of the criteria relating to legibility, some positive contributions would arise via provision of pedestrian footpaths fronting the site and the provision of a new route to the Luas stop.
- 13.6.12. Following on from considerations above in relation to the layout and design of the proposed development, including concerns that have been expressed regarding the layout of the buildings onto the shared-surface route leading to Brennanstown Luas stop, I consider the 25m to 27m height to front roof-parapet level to blocks E, F and H setback between 2m and 5m from a 4.8m wide shared surface, would have an excessively overbearing impact along this relatively narrow corridor, enclosing the space, which would be flanked by mature trees of considerable heights (5m to 20m). In conclusion, I am satisfied that the development would not fully satisfy building height criteria at a street level.

#### Site / Building-Scale Criteria

- 13.6.13. In sections 13.7 and 13.8 of this report I have considered in more detail the impact of the building height on the amenity of neighbouring properties and the proposed apartments, including issues such as daylight, overshadowing, loss of light, views and privacy. Issues in relation to sunlight, daylight and overshadowing have been adequately addressed as part of the proposed development, however, concerns arise with respect to the limited separation distances between various blocks within the southern area of the development, which would impact on the privacy of future occupiers of the respective apartments where excessive overlooking would be capable of arising.

13.6.14. In section 13.4 above I have highlighted that the proposals would not fail to protect the setting and character of Barrington Tower, while noting that the site is not within an ACA or an architecturally-sensitive area. I also note that matters with respect to energy efficiency and carbon emissions have been considered as part of section 13.8 and the EIA below. Notwithstanding this, arising from concerns with respect to limited separation distances, the building height criteria at a site / building scale level would not be satisfied.

#### County-specific Criteria

13.6.15. Several specific assessments have been undertaken and submitted with this application, specifically in relation to telecommunications, wind and microclimate, aeronautics, bats and ecology. An EIAR has also been submitted as part of the application package, with impacts arising from the proposed heights of the buildings considered as part of this. A Screening Report for AA, NIS and an Ecological Impact Assessment, including bat survey and winter bird survey, have been submitted as part of the application to demonstrate no significant impact on ecology, and no likely adverse impact on protected habitats or species, including bats and birds.

13.6.16. According to the applicant the height and scale for this new development would not have an impact on any current microwave telecommunication channels and should a link be found to be impacted by the development, mitigation would be employed by engaging with the telecommunication company and organising the re-alignment of microwave links to a new hop site. I note that ComReg maps reveal very good coverage in this area for all operators and concerns do not appear to arise in this regard.

13.6.17. The observers asserts that the layout and height of the proposed blocks would lead to wind tunnelling affecting the communal open spaces, while the Planning Authority did not share these concerns in noting that down drafts have been considered by the applicant, as demonstrated in their Wind Microclimate Study. The applicant asserts that micro-climatic effects have been considered in assessing the final layout for the proposed development, and with the exception of some private balconies, standing and sitting criteria would not prove problematic arising from wind. Ground-floor wind speeds were not calculated as being untenable by the applicant. Evidence to the contrary is not available to me and based on the proposals of a similar scale, context

and nature, the results presented would not appear unrealistic. The applicant's Aeronautical Assessment Report did not find the subject site to be within an airport public safety zone for neighbouring airports.

13.6.18. I am satisfied that adequate information has been submitted to enable me to undertake a thorough and comprehensive planning assessment of the building height impact of the proposed development and the county-specific criteria listed in table 5.1 of the Development Plan has been achieved.

### Conclusion

13.6.19. Should the Board be minded to grant permission for the subject development, the Planning Authority suggest the omission of one intermediary floor from blocks A/B, C/D, E, G and I, as well as two intermediary floors to blocks F and H. I do not consider these suggested reduced building heights, which would lead to the loss of 93 residential units, would fully resolve the issues raised, given the layout concerns expressed above, including the need for further consideration of the new access to the Luas line through the site and the need to safeguard the privacy of future occupiers of the development.

13.6.20. The proposed building heights would be greater than the height of the immediate existing neighbouring buildings. I am satisfied that the building-height, performance-based criteria set out in table 5.1 of Appendix 5 to the Development Plan has not been fully achieved by the development given the excessive heights of blocks E, F and H onto the eastern shared-surface route, particularly when coupled with the tight clustering of the buildings in this area. Non-compliance with the building height performance-based criteria in the Development Plan could be considered akin to a material contravention of the Development Plan with respect to building heights. As the applicant has addressed this in their material contravention statement, it is open to the Board to consider this further under the material contravention procedures.

## **13.7. Impacts on Neighbouring Amenities**

13.7.1. Chapter 4 of the Development Plan, including policy objective PHP20 aiming to protect existing residential amenity, sets out that applications for developments featuring a net density of greater than 50 units per hectare must include an assessment of how the density, scale, size and proposed building form does not

represent overdevelopment of the site. The applicant has provided a variety of assessments to attempt to demonstrate same. While policy objective PHP18 of the Development Plan encourages higher densities, this is subject to the protection of the residential amenities and established character of an area. Observers assert that existing homes need to be protected, while the Planning Authority do not consider there to be concerns in relation to overshadowing or overlooking of neighbouring properties, however, they are unclear as to whether the proposals would impact on the amenities of the area based on the proximity of the proposed buildings to the site boundaries.

- 13.7.2. The nearest existing residential properties to the proposed development are situated to the east and west of the development off Brennanstown Road and within Brennanstown Vale. The boundary to the part single and two-storey house known as Westfield adjoining to the northwest of the application site, would be located approximately 13m from proposed five-storey block A/B, with this block proposed to be positioned 26m from the house itself. There would be a separation distance of 29m between the proposed five-storey block C/D in the northeast corner of the site and The Cottage, a part single and two-storey house located fronting onto Brennanstown Road. The boundary to Friarswood (no.17 Brennanstown Vale) would be 18.5m from the proposed six-storey block I in the southwest corner of the development, with a 31.6m separation distance between this two-storey house and block I. For the two-storey house known as Cuana Buí (no.18 Brennanstown Vale), more substantive separation distances would arise with the proposed seven-storey block J located approximately 31.5m from the boundary to Cuana Buí. Proposed block J would be 36m from the boundary with Áras Eibhear and 42m from this part single and two-storey house adjoining to the west of the site.
- 13.7.3. There are more substantive separation distances between the proposed development and other neighbouring residences, including the houses known as Rosecot, Glenlion, Kilkeerin and Ardnamona, while Brennanstown Road provides a substantive physical buffer and visual distraction between the application site and housing to the north, including the houses known as Appledore and Greycot.

### Overlooking and Loss of Privacy

- 13.7.4. Policy objective PHP3 of the Development Plan refers to the revoked Sustainable Residential Development Guidelines and the associated Urban Design Manual when planning for sustainable residential communities, including any amendment thereof, therefore the Sustainable Settlements Guidelines are applicable to this element of my assessment. Various sections of the Development Plan refer to the traditional minimum separation distance of 22m between new and existing blocks, including opposing first-floor windows in two-storey housing. Dependent on positioning and detailed design, reduced separation distances may be acceptable based on the Development Plan, and in residential developments over three storeys, the Development Plan states that minimum separation distances may need to be increased having regard to layout, size and design. SPPR 1 of the Sustainable Settlements Guidelines states that Development Plans should not include minimum separation distances that exceed 16m and that a separation distance of at least 16m between opposing windows above ground-floor level serving habitable rooms at the rear or side of houses, duplex units and apartment units, should be maintained.
- 13.7.5. Observers assert that separation distances greater than 22m would be necessary to address loss of privacy and excessive overlooking into neighbouring properties, with tree planting unlikely to address these impacts. The applicant addresses non-compliance with Development Plan separation distances in their Material Contravention Statement. The Elected Members from the Planning Authority also refer to the potential for the development to result in excessive overlooking of neighbouring properties. While I accept that the planting along the boundaries would not provide an immediate visual screen between the proposed blocks and existing houses, particularly from the highest apartment block floors, given the separation distances between the proposed blocks and the nearest houses, and the planning provisions of SPPR 1 of the Sustainable Settlements Guidelines, there would not be potential for excessive overlooking to arise for the existing neighbouring residences. I would also be satisfied that the separation distances from the blocks to the boundaries would not substantively undermine the development potential of the adjoining properties. Accordingly, a refusal of permission or modifications to the proposed development for reasons relating to overlooking of neighbouring properties

would not be warranted. I consider the impacts on the privacy of future residents of the proposed apartments separately under section 13.8 below.

#### Outlook and Overbearing Impacts

13.7.6. The proposed development would be visible from the public realm and the external and internal areas of properties neighbouring the site. Consequently, it would change the outlook from these neighbouring properties. Having visited the area and reviewed the application documentation, including the photomontages, I consider that the extent of visual change that would arise for those with views of the development, would be reasonable having regard to the separation distances to properties, as referred to above, the intervening mature screen planting and as a contemporary development of this nature would not be entirely unexpected in this area, owing to the zoning of the site and the emerging pattern of development in the area, including developments such as Brennanstown Woods.

13.7.7. Another key consideration is whether the height, scale and mass of the proposed development and its proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. The Chief Executive and Elected Members from the Planning Authority refer to the potential for the development to have visually overbearing impacts where visible from immediate areas. As noted above, the proposed development features building heights taller than the heights of buildings in the immediate area. Photomontages in the applicant's Verified Photomontages and CGIs booklet provide illustrations of the appearance of the development from neighbouring areas. I am satisfied that the proposed development would not be overly prominent when viewed from the nearest properties, with an open outlook and sky view maintained. There would be sufficient intervening space between the existing properties and the proposed buildings to ensure that the proposed development would not be excessively overbearing when viewed from neighbouring properties.

#### Daylight and Sunlight Impacts

13.7.8. Substantive impacts on lighting to neighbouring properties are not raised. In assessing the potential impact on light access to neighbouring properties where existing occupants would have a reasonable expectation of daylight, two primary considerations apply, including the potential for excessive loss of daylight and light

from the sky into existing buildings through the main windows to living rooms, kitchens and bedrooms, and the potential for excessive overshadowing of existing external amenity spaces, including gardens. The applicant has provided a Daylight, Sunlight & Overshadowing Report assessing the skylight and sunlight levels available to neighbouring residences and gardens in both the existing situation and the potential future scenario with the development in situ.

13.7.9. The Sustainable Settlements Guidelines refer to the various technical standards that can be used in considering the impacts of a development on daylight to neighbouring properties. These Guidelines refer to the 2022 third edition of the BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice', whereas the applicant's Daylight, Sunlight & Overshadowing Report refers to the 2011 second edition version of the BRE 209 Guide. The applicant's report and the Guidelines both refer to the Daylighting to Buildings standards, IS EN17037:2018 and the UK National Annex BS EN17037:2019.

13.7.10. The BRE 209 Guide 2011 outlines a series of tests to identify whether rooms where daylight is required in adjoining dwellings, would receive adequate lighting as a result of a proposed development. The first of these tests states that if the separation distance is greater than three times the height of the new building above the centre of the main window (being measured), no further testing would be necessary. Based on the site context and development proposals many of the residences in the area would not fall into the category requiring detailed assessment. The applicant considered the potential for lighting impacts on 16 neighbouring residences within Brennanstown Vale and along Brennanstown Road. All of the windows tested in relation to annual probable sunlight hours (APSH) would comply with the BRE Guide 209 target. The calculations presented indicated that three windows and one room in each of nos. 16, 17 and 18 Brennanstown Vale would fall short of the vertical sky component (VSC) target set out in the BRE 209 Guide 2011, and four windows to neighbouring houses would fall short of the winter probable sunlight hour targets with the development in place. With three out of 284 tested windows falling short of the VSC target, this would represent less than a 1% shortfall. The four windows falling short of the winter probable sunlight hours target value would present less than 2% of the 223 windows tested for this purpose.

13.7.11. The testing undertaken indicates that adequate levels of lighting would be achievable for the vast majority of residences with the development in place. Where shortfalls would arise the applicant asserts that such shortfalls should be deemed to be acceptable given the flexibility provided in the BRE 209 Guide, the limited extent of the shortfalls relative to targets, the use, orientation and aspect of rooms falling short, the reasonable levels of lighting that would remain possible and the isolated number of windows or rooms impacted.

13.7.12. The Sustainable Settlements Guidelines indicate that there is a need to balance the assessment of sunlight and daylight with wider planning objectives, such as an effective urban design and a general presumption in favour of increased scales of urban residential development. The information available and presented suggests that the proposed development would not cause a substantive obstruction in daylight or sunlight to neighbouring properties with limited shortfalls indicated to occur overall and these shortfalls are largely marginally below the target values. I am satisfied that the extent of impacts to sunlight and daylight to neighbouring residences would be acceptable given the suite of matters to be considered and the need for efficient densities to be achieved on this accessible urban site adjacent to a high-capacity Luas stop.

#### Overshadowing

13.7.13. The BRE 209 Guide requires greater than half of neighbouring amenity areas to receive at least two hours of sunlight on the 21<sup>st</sup> day of March (the spring equinox). The applicant identified 11 neighbouring garden or recreation spaces that could reasonably be impacted by overshadowing from the proposed development, adjoining or adjacent to the site. Based on the applicant's assessment, including modelling and shadow-casting imagery, the scale, height, siting and orientation of the proposed buildings are such that they would not unduly impact neighbouring amenity space by overshadowing, with all the gardens or recreation spaces receiving at least two hours of sunlight on the spring equinox. While some overshadowing would be likely to neighbouring gardens, and this would be more prevalent during winter months, a substantive change of sunlight hours to neighbouring gardens would not arise.



### Construction Impacts

- 13.7.14. The observers refer to the increased disturbance to neighbouring residences that would arise during the construction phase, including via noise emissions. The Construction Management Plan submitted with the application sets out the intended measures to address traffic management, security, health and safety, as well as various controls with respect to hours of operations, fuel, water, dust, noise, vibration and waste. The EIAR submitted with the application addresses various aspects of the construction phase impacts, including noise impacts, where the applicant asserts that based on various noise limit levels, as well as standard construction practice mitigation measures, the proposed development would not result in significant noise impacts. The applicant's Site Investigation Reports provide insight into how excavation works would be undertaken for the proposed basement and foundation structures arising from the surveyed conditions.
- 13.7.15. The observers also query the capacity of Brennanstown Road to safely cater for the development, given vehicular weight restriction and the need to provide suitable haul routes during this period. The applicant's construction traffic management proposals aim to avoid use of the stretch of Brennanstown Road east of the application site by construction traffic. The three-tonne, weight-limit restriction on Brennanstown Road and the roundabout junction installed fronting the Brennanstown Woods development places substantive difficulties for large vehicles to pass through this area. Notwithstanding this, any construction phase impacts would only be of a temporary nature and would also be subject of a finalised project construction management plan, including a traffic management plan, as is required by the Planning Authority. There would not appear a reasonable alternative means of accessing the site for construction traffic, and it would appear most logical for construction traffic to avoid the stretch of Brennanstown Road deficient in footpaths east of the site.
- 13.7.16. Standard construction hours can be applied to the proposed development as a condition in the event of a grant of permission and there would be scope for measures to be enacted to address any limited loads required to pass along the west side of Brennanstown Road and the aforementioned roundabout. I am satisfied that the construction phase impacts would be capable of being controlled and undertaken

in a manner that would avoid undue impacts on the amenities of neighbouring residences.

### Conclusions

13.7.17. In conclusion, sufficient information has been provided with the application and is available to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive undue impacts for residents of neighbouring properties and accordingly, contrary to the assertions of observers the proposed development could not be considered to represent a material contravention of policy objective PHP20 aiming to protect existing residential amenity.

13.7.18. Observers assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Following on from the assessment above, sufficient substantive and objective evidence has not been provided to support claims that the proposed development would be likely to result in a depreciation of property values in the vicinity. It would be more plausible to suggest that such a development would increase the value of property in the vicinity. Accordingly, subject to conditions, the proposed development should not be refused permission for reasons relating to the likely resultant impacts on neighbouring amenities.

## **13.8. Residential Amenities and Development Standards**

13.8.1. An assessment of the amenities of the proposed development relative to quantitative and qualitative standards for residential development is undertaken below having regard to the guidance set out in the 2020 version of the New Apartment Guidelines, as well as the provisions of the Development Plan and various Section 28 Guidelines. Section 12.3.6 of the Development Plan addresses the standards for build-to-rent accommodation in the Dun Laoghaire-Rathdown area, referring to the need for such accommodation to comply with SPPRs 7 and 8 of the New Apartment Guidelines and section 12.3.5 of the Development Plan, which addresses traditional apartment standards.

### Apartment Mix

- 13.8.2. The proposed development would feature 30 studio (5.6%), 135 one-bedroom (25.3%), 318 two-bedroom, four-person (59.6%) and 51 three-bedroom (9.5%) apartments. Observers consider the proposed mix of units to materially contravene the provisions of the Development Plan, and that an increased mix of three-bedroom apartments is required in the development based on the HNDA appended to the Development Plan. While the Planning Authority accept that the overall mix of the units proposed would comply with SPPR 8 of the New Apartment Guidelines, they would prefer for the mix to be compliant with the mix for standard apartment schemes in policy objective PHP27 of the Development Plan and to provide a tenure considerate of neighbouring permitted residential schemes. Following a draft Ministerial Direction, the Planning Authority was requested to delete certain provisions in the Development Plan, including a paragraph referring to a percentage of three-bedroom units to apply to build-to-rent developments, which the applicant had noted would not be complied with as part of the subject proposals, thus leading to this matter being addressed in their Material Contravention Statement.
- 13.8.3. SPPR 8 of the New Apartment Guidelines provides that there shall be no restrictions on dwelling mix for build-to-rent developments and it is this provision that is relied upon in the Development Plan and for the purposes of my assessment of the unit mix in the subject application. Given the absence of strict unit mix requirements for build-to-rent schemes in the 2020 version of the New Apartment Guidelines, the proposed apartment mix is considered to be acceptable and, accordingly, it cannot be reasonably considered that the proposed unit mix would materially contravene unit mix standards in the Development Plan.

### Apartment Standards

- 13.8.4. The applicant has submitted a Housing Quality Assessment comprising a schedule of accommodation based on unit types, which provides details of apartment floor areas, aspect, room sizes, storage space and private amenity space. The Planning Authority consider the aspect, floor areas, floor to ceiling heights, lift and stair core access, internal storage spaces and private amenity spaces for the proposed apartments to either meet or exceed the requirements of the New Apartment Guidelines.

- 13.8.5. The studio units measuring 40sq.m, the one-bedroom units measuring between 45sq.m and 66sq.m, the two-bedroom units measuring between 77sq.m and 83sq.m and the three-bedroom units measuring between 103.5sq.m and 134sq.m, would meet the minimum 37sq.m, 45sq.m, 73sq.m and 90sq.m unit size requirements respectively required for these apartments in the New Apartment Guidelines. A total of 46% of the apartments would exceed the New Apartment Guidelines floor space standards by more than 10%, despite SPPR 8(iv) of the New Apartment Guidelines not requiring this standard provision to be complied with in build-to-rent schemes. The internal design, layout and room sizes for each of the apartments, as identified in the applicant's drawings and Housing Quality Assessment, would accord with or exceed the relevant standards, as listed in the New Apartment Guidelines, including the standards in appendix 1.
- 13.8.6. Floor-to-ceiling heights of 2.7m for the ground-floor level and 2.4m for the upper-floor levels are illustrated in the apartment block section drawings, in compliance with SPPR 5 of the New Apartment Guidelines and section 12.3.5.6 of the Development Plan. For build-to-rent schemes, SPPR 8(ii) of the New Apartment Guidelines allows flexibility in the application of the 3sq.m, 6sq.m and 9sq.m internal storage space respectively required for studio / one, two and three-bedroom apartments, although the subject proposals comply with these standards, which are replicated in table 12.3 of the Development Plan. The Development Plan also refers to the need for apartment schemes to be provided with external storage for bulky items outside individual units, in addition to the minimum apartment storage requirements. These storage units should be secure, at ground-floor level, near the entrance to the apartment block and allocated to each individual apartment unit. The applicant's Housing Quality Assessment refers to dedicated communal storage areas for post and parcel delivery proposed at ground-floor level to blocks E and I, and the drawings identify ancillary rooms at lower-basement level to blocks E, F, G, I and J and these would appear to be capable of serving as external bulky goods storage areas for the proposed apartments. The New Apartment Guidelines do not necessitate external apartment storage to be provided as part of a build-to-rent development.
- 13.8.7. The Development Plan and SPPR 8(v) of the New Apartment Guidelines do not set a minimum requirement for lift and stair core access per apartment in build-to-rent

schemes. SPPR 8(ii) of the New Apartment Guidelines allows for flexibility with respect to the normal private amenity space standards serving apartments in build-to-rent schemes. Notwithstanding this, all of the proposed apartments would be provided with either balconies, patios or roof terraces measuring at least 4sq.m for a studio apartment, 5sq.m for a one-bedroom unit, 7sq.m for a two-bedroom unit and 9sq.m for a three-bedroom unit, which would be in compliance with standard apartment requirements in the New Apartment Guidelines and the Development Plan.

- 13.8.8. Section 12.3.5.1 of the Development Plan refers to the entire county area as falling into a suburban or intermediate area based on the categories in the New Apartment Guidelines, and, as a consequence, a 50% proportion of dual aspect units would be required in the proposed development based on the provisions of SPPR 4 of the New Apartment Guidelines. As noted above, the area is clearly an ‘accessible urban location’, and I am satisfied that a 33% proportion of dual aspect units would be necessary based on the provisions of the New Apartment Guidelines. Notwithstanding this, 50.4% of the proposed apartments would feature dual aspect in compliance with the Development Plan requirements, with no north-facing, single-aspect apartments proposed. Consequently, despite addressing this matter in their Material Contravention Statement, it cannot be reasonably concluded that the proposed development would materially contravene the dual aspect provisions within the Development Plan.

#### Lighting to Apartments

- 13.8.9. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 ‘Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice’ (2011) and BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. Section 6.6 of the 2020 version of the New Apartment Guidelines states that Planning Authority’s should have regard to BRE 209 Guide 2011, when considering the adequacy of lighting to apartment developments. The more recent update of the New Apartment Guidelines refer to the BRE 209 Guide

2022. These standards are also referenced in the Development Plan with regard to habitable rooms and communal spaces. As noted above the Sustainable Settlements Guidelines refer to the 2022 third edition of the BRE 209 Guide, as well as Daylighting to Buildings standards, IS EN17037:2018 and the UK National Annex BS EN17037:2019.

13.8.10. As part of the application the Daylight, Sunlight & Overshadowing Report assesses the proposals against the standards in the BRE 209 Guide 2011 and the anticipated BRE 209 Guide 2022 taking into consideration the provisions within BS EN 17037:2018. I am satisfied that there is sufficient scope within the section 28 Guidelines to allow for consideration of proposals against different versions of the BRE 209 Guide, and this allows for a reasonable assessment of the likely impacts of lighting to the proposed units.

13.8.11. Under the BRE 209 Guide 2011 a minimum average daylight factor (ADF) of 1.5% should be achieved for living rooms, with a 1% ADF for bedrooms and a 2% ADF for kitchens. The 2022 version of the BRE 209 Guide refers to the recommendations in the British Standard BS EN 17037, which set a target luminance level of 200 lux for kitchens, 150 lux for living rooms and 100 lux for bedrooms.

13.8.12. The results of testing for all 1,461 rooms in the proposed development are presented in tabular and graphical format in relation to the target ADF and lux levels. The applicant's modelling indicates that 1,231 rooms, representing 84% of the rooms in the development, would meet the target lux levels, including a 200 lux target for living / kitchen/ dining rooms, studio apartments and communal spaces. The results of testing also calculated ADF values exceeding the target value for 95% of the rooms in the development when applying a 2% ADF target value for the open-plan living / kitchen / dining rooms. If a 1.5% target value was assigned to the proposed living / kitchen / dining rooms the proposals would provide for 98% compliance with ADF targets, with 26 of the 1,461 tested rooms falling short of the minimum target ADF value. The Planning Authority do not raise concerns with respect to the provision of daylighting to the proposed apartments.

13.8.13. The applicant considers the proposed development to perform well against the target standards and that the proposed development would feature a satisfactory level of daylight based on the assessment. The applicant also details that the rooms falling

short of luminance levels would feature sufficient lighting to their front portions, which would also feature private balcony and terrace spaces offering additional daylight amenity.

- 13.8.14. The applicant also assessed the sunlight available through windows to the apartments, revealing that the BRE 209 Guide 2022 APSH target value would be exceeded for 58% of the windows serving rooms within 90 degrees of due north, with 51% of these windows meeting the target value for winter APSH. The applicant refers to the positioning of balconies as impacting on sunlight, while referring to use of APSH targets as not providing an appropriate means of calculating lighting performance for residences, particularly where windows are north-facing.
- 13.8.15. I note that the achievement of minimum ADF, APSH and lux levels are only one of a broad spectrum of interrelated requirements in the successful design of new apartments such as those proposed, with room sizes and layouts, window types and positions, and the provision of balconies interacting with the achievement of target lighting values. In this regard a reasonable balance needs to be achieved to ensure an appropriate standard of living accommodation and amenities for residents, and I am satisfied that this would generally be achieved in this case.
- 13.8.16. Where proposals would not fully comply with daylight provisions, the Building Height Guidelines and the New Apartment Guidelines outline that a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board should apply their discretion, having regard to local factors, including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution. The Sustainable Settlements Guidelines also set out that there is a need to balance poor performance with the desirability to achieve wider planning objectives.
- 13.8.17. I am satisfied that the solutions put forward by the applicant, including directly adjoining private amenity space, would offer some compensation for the identified shortfalls in daylight to the relevant apartments. Further to this, the subject proposals would clearly lead to comprehensive redevelopment of an accessible urban site with potential for easy access to high-capacity Luas services. Substantive compliance with daylight targets would arise for the vast majority of the apartments,

with a greater proportion of non-compliance with sunlight targets. The shortfalls with respect to sunlight exposure are as a consequence of the need to ensure comprehensive redevelopment of the site, while addressing the site context, including the avoidance of undue impacts on neighbouring properties.

13.8.18. I note that the targets set in the BRE 209 Guides are not mandatory and lighting standards should be interpreted with flexibility. I am satisfied that where shortfalls are identified to arise with respect to the level of lighting to the proposed apartments, the alternative, compensatory design solutions put forward by the applicant, would be appropriate in ensuring a reasonable level of amenity for future residents of the respective apartments having regard to the noted site constraints and the achievement of wider planning objectives.

#### Privacy and Overlooking

13.8.19. As outlined above, minimum separation distance of approximately 22m between directly opposing windows to maintain privacy is required within the Development Plan. The proposed development would feature eight blocks distributed across the site providing for reasonably consistent separation distances, although the 22m stipulation within the Development Plan is not achieved in numerous circumstances. The observers assert that separation distances of greater than 22m would be necessary to address overlooking between blocks, while the Chief Executive Officer from the Planning Authority refers to the separation distances between blocks falling short in six situations. The Elected Members also refer to there being poor separation distances between the blocks.

13.8.20. As mentioned above, SPPR 1 of the Sustainable Settlements Guidelines provides for minimum separation distances of 16m at upper-floor levels to residential buildings. It would appear that four building separation distance shortfalls would arise in the proposed development, specifically between blocks E and G (15.9m), between blocks E and F (10m), between blocks G and H (11.6m) and between blocks J and I (9.8m).

13.8.21. The applicant accepted that the proposals would fail to comply with the 22m provision within the Development Plan, and consequently they chose to address this matter in their Material Contravention Statement. Notwithstanding the shortfall in separation distances the applicant does not consider privacy issues to arise, due to



the changes in levels within the site and as the separation distances would provide for a high-quality, visually-interesting development at an appropriate density, while ensuring daylight, sunlight and privacy are maintained to an appropriate level. According to the applicant, windows would be strategically positioned or have translucent glass to avoid direct views to neighbouring buildings.

13.8.22. SPPR 1 of the Sustainable Settlements Guidelines sets out that separation distances below 16m may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. The Guidelines set out that habitable rooms comprise primary living spaces, such as living rooms, dining rooms, studies and bedrooms. In all four situations referenced above where a separation distance below 16m would arise, habitable room windows, as well as private amenity spaces, would directly face each other and, in order to comply with the provisions of SPPR 1, suitable privacy measures need to be employed to address the potential for undue overlooking to arise between apartments.

13.8.23. There is no reference to the specific windows that would be fitted with obscure glazing or similar means of averting direct overlooking, and accordingly I can only conclude that the separation distance between blocks E and F, blocks E and G, blocks G and H and blocks J and I would fail to meet the minimum criteria required under SPPR 1 of the Sustainable Settlements Guidelines. Privacy measures have not been designed into the scheme to prevent the potential for undue overlooking between apartments within the scheme. I acknowledge that there would be open space and passageways at surface level separating the blocks, however, these spaces would not provide an adequate visual distraction or buffer between the blocks, particularly at the upper-floor levels. Regardless of any differences in floor levels between the blocks north and south of each other, this difference would not serve to substantively address undue overlooking. Given the fact that the windows within 16m directly facing each other would serve habitable rooms, I would not consider it appropriate to attach a condition to fit these windows with obscure glazing to prevent undue overlooking. Furthermore, besides from the potential to reposition block E and F to address the minor shortfall in separation distance between these blocks, the repositioning of blocks to increase the separation to distances of greater

than 16m would clearly have material implications for other aspects of the development, including open space, lighting, appearance and access. Accordingly, I conclude that permission should be refused for the proposed development, as the separation distances stated above would fail to fully comply with the provisions of SPPR 1 of the Sustainable Settlements Guidelines.

13.8.24. In relation to the provision of privacy at surface level, based on the landscape master plan submitted (drawing no. 1815\_PL\_P\_01\_IFP), I am satisfied that there would be sufficient defensible space for planting to be provided between the accessible hard surfaced areas and the terrace spaces and windows serving ground-floor apartments to safeguard the privacy of future residents of the respective apartments. Vertical screens would be required throughout the development between adjoining private terraces and balcony spaces. A condition would need to be attached to address this.

#### Residents' Supports and Services

13.8.25. Under SPPR 7 of the New Apartment Guidelines, build-to-rent apartment schemes must provide resident support facilities related to the operation of the development. It is also necessary to provide resident services and amenities under SPPR 7 of the New Apartment Guidelines, while section 12.3.6 of the Development Plan requires similar internal facilities to be provided.

13.8.26. As part of the project, it is proposed to provide resident support services in the form of parcel lockers, waste and recycling storage areas and on-site management staff areas. The applicant's proposed residents' services and amenities all located in blocks E and I and measuring 1,496sq.m, would include concierge desks, postal storage, work-sharing space, lounges, meeting rooms, gym, multipurpose rooms and ancillary backroom offices and toilets, which the applicant states would be multi-functional and would maximise flexibility of use for the future build-to-rent residents. The applicant's Build-to-Rent Operational Management Plan outlines how these spaces, as well as the communal spaces, would be managed and operated. The Planning Authority are satisfied with the proposed provision of resident support facilities and resident services and amenities.

13.8.27. I am satisfied that the proposed communal facilities would be comparable with the provision in recently permitted residential developments of this nature and would be suitable to serve residents of the development based on the relevant standards.

### Communal Open Space

13.8.28. According to table 12.9 of the Development Plan and appendix 1 of the New Apartment Guidelines, the communal open space provision to serve the development should amount to a minimum of 4sq.m for studio apartments, 5sq.m for the one-bedroom apartments, 7sq.m for two-bedroom (four-person) apartments and 9sq.m for three-bedroom apartments. Based on the apartment mix only and these planning provisions, the proposed development would require 3,480sq.m of communal open space. According to the applicant, communal amenity areas would be provided generally in the form of courtyard spaces and spaces adjacent to apartment blocks amounting to 4,200sq.m (see drawing no. 1815\_PL\_P\_07\_IFP). The location of the communal spaces would be well distributed across the scheme, would directly serve the residents of each of the apartment blocks and would be directly overlooked by the apartments. I am satisfied that the provision of communal open space would contribute to the amenities of future residents, in conjunction with the alternative public and private open space provision proposed as part of the development. There is variety in the function and appearance of the courtyard communal spaces, including the landscaping, furniture and equipment, with these spaces closed off from public areas by railings and other enclosing treatments.

13.8.29. Apart from the courtyard space between blocks E, G and F, as well as the space adjoining the west side of block E, over half of each of the communal areas would receive at least two hours of sunlight on the spring equinox, which would exceed the minimum requirements set out within the BRE 209 Guide. While I note the shortfall in sunlight to the two spaces referenced above, these spaces would represent a small portion of the overall communal open space and they would receive sunlight during summer months, while being supplemented by the other courtyard spaces. In conclusion, I am satisfied that the communal open space proposed would provide a reasonable level of amenity for future residents of the apartments in the development based on the relevant applicable standards.

### Childcare Facility

13.8.30. Observers assert that the proposed development would materially contravene the provisions of the Development Plan with respect to childcare provision. Policy objective PHP6 of the Development Plan looks to provide childcare facilities in new

residential developments subject to demographical and geographical criteria. According to the Development Plan, the provision of childcare facilities should be based on the Childcare Guidelines, which recommend one childcare facility for every 75 residential units.

- 13.8.31. A total of 18 existing childcare facilities have been identified by the applicant within 2km of the application site, with no vacancies identified in these facilities. Reference is also made to the childcare facility constructed as part of the Brennanstown Woods development with space for 63 children. Based on a demographic profile of the area and the provisions within the New Apartment Guidelines and the Childcare Guidelines, including an allowance to omit the 165 proposed studio and one-bedroom units from calculations, and a unit occupancy of 2.7 persons, the applicant asserts that the development would generate a requirement for 98 childcare spaces, which the applicant asserts could fall further based on the actual uptake of spaces. The applicant states that the proposed childcare facility featuring three childcare rooms, as well as ancillary rooms, external play area and drop-off / collection area, would have capacity to accommodate 99 children.
- 13.8.32. The Planning Authority accept that the proposed childcare facility would align with the relevant provisions of the Development Plan and New Apartment Guidelines, with a condition required with respect to hours of operation. Dun Laoghaire-Rathdown County Childcare Committee has not responded to consultation regarding the application.
- 13.8.33. I am satisfied that based on the information presented and available, the proposed childcare facility would be capable of meeting the demand for childcare spaces arising from the development and the proposed development would comply with policy objective PHP6 of the Development Plan, as well as the provisions of the New Apartment Guidelines and the Childcare Guidelines. The applicant addresses the provision of a childcare facility that is not a standalone facility in their Material Contravention Statement. Section 12.3.2.4 of the Development Plan refers to a purpose built, ground floor, standalone property, as being the most suitable for new residential developments providing full daycare. As such, based on this wording I am comfortable that there is not a strict provision within the Development Plan restricting integrated childcare facilities within new residential development and a material contravention of the Development Plan would not arise in this regard.

### Schools and Support Facilities

13.8.34. Within their Planning Report, the applicant refers to four primary schools and three post-primary schools within a 32-minute walk of the application site. I also note a reservation for a school as part of the neighbouring housing proposals south of the Luas line (ABP ref. 313322-22). Various other local services are referenced throughout the application documentation. Increased housing in locations such as this, ensure the efficient and increased use of existing and planned services in a formal manner, including schools, sports clubs and other social and physical infrastructure. Such services are dependent on a critical mass of population to justify the establishment of additional services or for them to remain viable. In the immediate and wider environs of the site there are schools, shops, retail services and medical facilities, all of which would benefit from the development. The proposed development would feature a retail unit, public open space and a childcare facility. In conclusion, supporting infrastructure and services required for this apartment development on residential zoned land would be largely available in the immediate area, the proposed development would support maintaining these services and as demand increases other additional supports to serve the development would become viable.

### Waste and Recycling Management

13.8.35. The Operational Waste Management Plan submitted with the application identifies the likely volumes and types of waste and recycling that would need to be managed on site based on the nature and scale of the proposed development and planning policy. Drawings have been submitted identifying the location of the bin stores to serve the childcare facility, the retail unit and residents of the apartments. One secure communal bin store is proposed at ground level to block C/D to serve blocks A/B and C/D, with each of the other apartment blocks provided with a bin store at basement or lower ground-floor level, and dedicated bin stores for the retail unit and childcare facility. On collection days, refuse and recycling collected in bins would be brought to staging / collection areas and returned immediately following collection. Swept-path analysis for a refuse vehicle to each collection area is provided in drawing no.BRR-WM-ZZ-00-DR-C-P013.

13.8.36. The Planning Authority assert that further details are required with respect to operational waste management to avoid the creation of serious nuisance in the operation of the proposed works. Future residents of block A/B would be required to traverse the 25m-wide communal open space in order to access the bin stores in block C/D. This would conflict with the provisions of the New Apartment Guidelines stating that refuse facilities should be accessible to each apartment lift core. I consider a more convenient means of providing a waste and recycling collection area for future residents of block A/B would be necessary. Subject to condition, including a finalised operational waste and recycling management plan and a revised bin store for block A/B, I am satisfied that sufficient provision for waste and recycling collection, comparable with developments of a similar scale and nature, would be provided as part of the development and in line with the New Apartment Guidelines.

#### Building Lifecycle

13.8.37. As required within the New Apartment Guidelines, a Building Lifecycle Report assessing the long-term running and maintenance costs, and demonstrating the measures that have been considered by the applicant to manage and reduce costs for the benefit of residents of the proposed apartments, has been included with the planning application. Various energy-efficiency and carbon-reduction measures are listed in the Building Lifecycle Report, as are proposals with respect to the management and maintenance of the development. Measures reducing energy usage and carbon emissions are also considered as part of the applicant's Energy & Sustainability Report, with finalised energy-performance targets based on the Building Regulations TGD Part L (nearly-zero energy buildings). A building energy rating (BER) A2/A3 would be mandatory for the apartments. Compliance with Building Regulations TGD Part F (ventilation) will also be achieved according to the applicant.

13.8.38. The Planning Authority assert that the applicant has demonstrated regard for the relative energy cost and expected embodied carbon emissions over the lifetime of the development and I am also satisfied that this would be the case. Prior to the lease of individual apartments, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific owners' management company.

## Conclusion

13.8.39. In conclusion, subject to conditions, I am satisfied that the proposed development would provide a quality and attractive mix of build-to-rent apartments, however, concerns arise regarding the potential for excessive overlooking and loss of privacy between several apartments owing to the separation distances between proposed apartment blocks E and F, blocks G and H and blocks J and I substantively falling short of the 16m requirement and not featuring mitigation measures to address this or being capable of being mitigated in a practical manner via condition other than the complete omission of three blocks. Accordingly, the proposed development would fail to comply with SPPR 1 of the Sustainable Settlements Guidelines and permission should be refused to be granted for this reason.

## **13.9. Traffic and Transportation**

13.9.1. The Planning Authority do not object to the proposed traffic and transport impacts, although they do require compliance with various standard conditions, including those relating to the completion of certain works and compliance with specific standards.

### Access

13.9.2. The observers assert that the application fails to prove that the proposed development would be sufficiently served with respect to public transport, with poor access to bus transport, and substantive walks to Laughanstown and Carrickmines Luas stops. I have addressed the provision of public transport services in this area in section 13.3 of this report when addressing the density of the development, which indicated that subject to a condition restricting occupancy of the development until such time as access to an operational Brennanstown Luas stop is available, a high-capacity, urban public transport stop would be within reasonable walking distance for the future occupants of the proposed development. I have highlighted substantive concerns with respect to SLO 73 of the Development Plan, as a consequence of the increased traffic likely to be associated with the proposed development and the absence of an alternative safe pedestrian route being available towards the most convenient local neighbourhood centre.

- 13.9.3. The sole vehicular access to serve the proposed development would be from Brennanstown Road. To conform with the DMURS requirements, sightline visibility distances of 45m in length are required along this 50km/hr stretch of road. Visibility splays are not illustrated in the drawings submitted and while the applicant's Engineering Assessment Report refers to the DMURS access visibility requirement, the applicant's DMURS Statement of Consistency does not refer to this being achieved. The access would be 24m from the boundary with The Cottage, a residential property adjoining to the east along Brennanstown Road, and it is unclear whether the proposed access would meet the DMURS requirement due to the position of the neighbouring boundary to this house directly onto the carriageway edge. The vehicular access may need to be positioned further to the west of the site frontage to address the visibility requirement. The applicant has also proposed a new vehicular access into the Appledore property to the north of the site, with this access in line with DMURS primarily consequent to the presence of a footpath extending along the northern side of Brennanstown Road.
- 13.9.4. Observers also raise concerns regarding these sightlines, vehicle tracking and emergency access. The applicant has provided details of swept-path analysis for various vehicles entering and exiting the development. Notwithstanding this, I have raised concerns regarding the shared-surface route leading south of block E towards the Luas line corridor. I have reservations that the development, including the access to the Luas stop, would be capable of being served in a safe and convenient manner based on the layouts and details presented. Observers assert that an alternative vehicular access to the development would be necessary, however, based on the above and with no other public roads connecting with the site, I am satisfied that a revised access arrangement addressing visibility concerns would only be necessary.
- 13.9.5. As part of the applicant's Quality Audit document, a stage 1 road safety audit was undertaken, which the observers state should have covered Brennanstown Road. I note that the audit does refer to the Brennanstown Road area and two of the items raised relate to the access junction along Brennanstown Road, including the need for the construction access to facilitate heavy goods vehicles and a carriageway width to allow for two wide vehicles to pass. There is a three-tonne vehicular restriction in operation on Brennanstown Road and the carriageway width proposed fronting the



application site would be consistent with the recently reconfigured stretch of road fronting Brennanstown Woods. As outlined above, I am satisfied that the works proposed along Brennanstown Road fronting the site would improve the safety of this stretch of road.

#### Car Parking

- 13.9.6. The observers assert that the proposed development would materially contravene the provisions of the Development Plan with respect to car parking and the development would be likely to result in overspill parking to neighbouring areas with an absence of consideration for visitor parking. The applicant addresses the potential for the car parking provision to be considered a material contravention of the Development Plan in their Material Contravention Statement.
- 13.9.7. The application proposes a total of 419 car parking spaces to serve the development, which would primarily be at basement / lower ground-floor level. Based on the unit mix, the Development Plan would require a maximum of 585 car parking spaces. A total of 17 disabled car parking spaces are proposed and the applicant refers to one car parking space as being allocated for a car-share scheme. According to the Traffic and Transport Statement submitted with the application, all spaces would feature electric-vehicle ducting and 10% would feature electric-vehicle charging points. In addition to the two set-down spaces, six car parking spaces are allocated to serve the childcare facility and the retail unit. A total of 17 motorcycle parking spaces are also proposed.
- 13.9.8. The Transportation Planning section of the Planning Authority require various amendments to the basement car parking to address lane widths, wayfinding, headroom, the avoidance of cul de sacs and the provision of a secondary access, which would appear reasonable to request via condition, although this may require reconsideration of the use of the shared-surface route. The Transportation Planning section also require one car parking space for each residential unit. The applicant asserts that the provision of car parking, including the 0.78 spaces per residential unit, is compliant with the provisions of the New Apartment Guidelines.
- 13.9.9. SPPR 3 of the Sustainable Settlements Guidelines sets out that a maximum of one car parking space per residential unit would be acceptable in what I consider to be an urban neighbourhood. The New Apartment Guidelines advocate the

consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in high-density residential developments with a net density of greater than 45 units per hectare. SPPR 8(iii) of the New Apartment Guidelines requires minimal or significantly reduced car parking provision for built-to-rent developments given that they feature strong central management regimes and as they are more suitable in central locations and/or in proximity to public transport services. A Build-to-Rent Operational Management Plan and a Travel Plan has been provided with the application, including the various measures to influence use of more sustainable modes of transport and control car parking for residents as part of the development. Observers assert that this Travel Plan omits details of how modal targets would be set, monitored, reviewed and implemented, as well as any remedial actions. The Travel Plan sets out modal targets and how the management company would control parking, including remedial actions to address targets, while also referring to measures to review and monitor the plan. Further details can be requested if permission is granted.

13.9.10. I am satisfied that car parking for the proposed development below the maximum Development Plan standards and the provisions of SPPR 3 of the Sustainable Settlements Guidelines would be reasonable, particularly given the scope to restrict occupancy via condition until the Brennanstown Luas stop is operational and accessible, and given the stated provisions of SPPR 8 of the New Apartment Guidelines. The proposed development could not be reasonably considered to materially contravene the Development Plan in this regard, given that the car parking would not exceed the Development Plan maximum car parking provisions. Based on the information submitted with the application, I am satisfied that with the implementation of the residential travel plan, a sustainable approach to car parking would be provided to serve the proposed development.

#### Cycle Parking

13.9.11. The proposed development would feature secure cycle parking areas for 1,058 bicycles at basement level and 208 bicycles at surface level. The surface level spaces would serve visitors to the apartments, along with 26 stacked spaces for the Luas stop and 19 spaces for the childcare facility. According to the applicant, the Development Plan would require 641 cycle parking spaces for the apartments and 19 spaces for the childcare facility and the retail unit, while the New Apartment

Guidelines would necessitate 1,221 spaces for the apartments. SPPR 4 of the Sustainable Settlements Guidelines addresses the quantity and design of cycle parking, requiring a minimum of one cycle storage space per apartment bedroom, as well as provision for visitor cycle parking. Provision should also be made for a mix of cycle types, including larger/heavier cargo and electric bikes, and for individual lockers. Under the provisions of SPPR 4, cycle storage facilities should be provided in dedicated facilities of permanent construction, within a building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction.

13.9.12. The Planning Authority accept that an adequate level of cycle parking spaces would be provided as part of the proposed development, however, they raise concerns with respect to double-stacked cycle parking for long-term spaces, while also requiring various details with respect to storage and cargo-cycle parking. I am satisfied that convenient access to secure basement cycle storage facilities would be provided for the apartments sitting directly over the basement / lower ground-floor structure. Furthermore, based on the provisions of SPPR 4 with respect to the 954 bedrooms and the Development Plan cycle parking standards for the non-residential elements, as well as the need to provide an element of visitor parking to the development itself, the overall quantum of cycle parking would appear appropriate. Notwithstanding this, I would have concerns regarding the absence of a secure cycle parking compound immediate to blocks A/B and C/D with only a surface-level, visitor cycle parking area noted to be proposed adjacent to the north of block C/D. A secure sheltered structure convenient to these blocks would be necessary for cycle storage, as well as details of how a mix of cycle parking spaces are to be provided throughout the scheme. Such matters could be addressed as conditions in the event of a grant of planning permission for the proposed development.

13.9.13. It is difficult to appreciate whether or not the quantum of cycle parking adjacent to the Luas stop is appropriate, while there would also be concerns with respect to limited extent of apartments directly overlooking the 26 stacked cycle parking spaces. I consider this and the Planning Authority's request for a secondary vehicular access to the basement parking to be indicative of the need to consider the layout and function of the space adjacent to the Luas line further to ensure an appropriate form of development in this area.

## Traffic

- 13.9.14. Observers assert that the proposed development should not be permitted given the existing condition of Brennanstown Road and traffic congestion experienced along this route. The applicant submitted a Traffic and Transport Assessment following traffic surveys undertaken during Covid restrictions and outside of post-primary school term in June 2021 for five neighbouring junctions along Brennanstown Road. Pre-covid traffic counts arising from a neighbouring residential proposal (ABP ref. 305859-19) for a sixth junction along Brennanstown Road were also included. The applicant's assessment illustrates the traffic capacities and flows surveyed and sets out forecasts for potential traffic growth scenarios based on estimated traffic flow increases. Observers refer to the retail unit as attracting traffic onto Brennanstown Road and the need for further consideration of the cumulative traffic impacts of the development alongside other residential developments, the Carrickmines retail park expansion and the M50 motorway capacity.
- 13.9.15. Traffic associated with the proposed retail unit, the Doyle nurseries site permission (ABP re.305859-19) and Brennanstown Woods development (ABP ref.301614-18), as well as future scenario traffic multipliers, has been factored into the traffic model. The applicant considers the extent of trips associated with the residential element of the development to be comparable with those utilised in justifying the Doyle nurseries site permission (ABP ref. 305859-19). The assessment suggested the total number of additional vehicular trips associated with the proposed residential element of the development during the morning peak hour (08:00 to 09:00) would comprise a maximum of 175 outward trips, with 126 returning trips during the evening peak hour (17:00 to 18:00). The applicant's modelling assumes 85% of the traffic exiting the site in the morning peak hour would travel west on Brennanstown Road, which the applicant asserts to follow the trip distribution pattern in the two aforementioned recent residential developments permitted on Brennanstown Road.
- 13.9.16. The modelled scenarios reveal that with the development in place all five junctions west of the development entrance junction onto Brennanstown Road would operate over the 10% sensitivity threshold set out in the TII Traffic and Transport Assessment Guidelines. Consequently, further assessment of the performance of these junctions with the development in place was necessary. The sixth junction at the eastern end of Brennanstown Road with the Bray Road and Johnstown Road

would feature a 3% increase in movements at the junction. Observers assert that this junction should have been subject to modelling, however, the data presented suggests that this junction would operate below the sensitivity threshold set for further assessment or modelling in the aforementioned TII guidelines. I am satisfied that the junctions assessed would be likely to be those most impacted by the increased traffic arising from the proposed development. The development would be likely to increase congestion along Brennanstown Road, as highlighted with respect to the traffic impacts at junction 1.

13.9.17. Various peak hour assessments of the five sensitive junctions was undertaken for the opening year of the development (2026). The modelling identified lengthy queuing of 24 vehicles in the opening year +15 (2041) scenario during morning and evening peak hours at junction 1 (Brennanstown Road / Glenamuck Road / Brighton Road / Claremont Road), or a degree of saturation (DOS) amounting to 96% to 99%. The applicant concludes that this junction would operate slightly above capacity during this future-year scenario. To justify this the applicant asserts that while a 90% and 100% DOS or slightly above this is likely to present some level of congestion, the scenario identified is only slightly higher than the 'do nothing' scenario for 2041. Vehicle queuing during peak hours at junctions 2 (Carrickmines Woods), 3 (Brennanstown Vale) and 4 (private road roundabout) would be less than one vehicle based on the assessment. Queue lengths comprising five cars in the morning peak hour and nine cars in the evening peak hour are anticipated at signalised junction 5, which is the junction proposed as part of the development.

13.9.18. As noted above, there is no reference to the proposed development creating a new connection to the Brennanstown Luas stop from Brennanstown Road, which would invariably attract some level of traffic into and out of the site, and increased traffic along Brennanstown Road. It is likely that enhancements to the layout of the existing Brennanstown Road / Glenamuck Road North / Brighton Road / Claremont Road signal-controlled junction permitted in August 2018 as part of the Brennanstown Woods development (ABP ref. 301614-18) have been factored into the applicant's model for this junction, including the implementation of a new traffic signal controller, signal heads and loops.

13.9.19. Given the sensitivity shown to arise for at least five of the junctions, it would appear prudent for traffic modelling to address the fact that surveys were undertaken during

Covid and outside of the post-primary school term. For example, as part of their consideration of the noise impacts, chapter 8 of the submitted EIAR considers the traffic flows arising from the application noise survey (June 2021) to be representative of a 50% reduction in normal traffic flows. Comprehensive traffic modelling to address the traffic arising from the access to the Luas has not been undertaken by the applicant. On the basis of the information submitted, it is unclear if the proposed development would give rise to potential detrimental impacts on the capacity and operational efficiency of the local road network in the vicinity of the site, although it is clear that capacity issues would arise for the Brennanstown Road / Glenamuck Road North / Brighton Road / Claremont Road signal-controlled junction. This junction is currently operating well within capacity according to the applicant, and the proposed development would result in the Brennanstown Road arm of this junction operating at or above capacity during peak hours

#### Conclusion

13.9.20. In conclusion, further congestion of the Brennanstown Road would be likely to lead to increased traffic hazard on this road featuring substandard sections, which would increase risks to road safety and endanger the public.

### **13.10. Services and Drainage**

13.10.1. The observers assert that the proposed development would not be sufficiently served with respect to drainage and water services. The application was accompanied by an Engineering Assessment Report, which sets out how it is intended for the water supply and drainage services to be connected into the proposed development.

#### Water Supply

13.10.2. According to the applicant, there is an existing 6 inch-diameter watermain running along Brennanstown Road, which the proposed development would connect into. Based on an apartment occupancy of 2.7 persons, as well as the retail unit and childcare facility, within their Engineering Assessment Report the applicant estimates the expected total water supply arising from the proposed development would need to cater for approximately 1,500 persons. Uisce Éireann, who maintain and manage this infrastructure, has confirmed that a connection to their water supply network can

be made, subject to compliance with their standard requirements. The Planning Authority note the water supply proposals and the confirmation received from Uisce Éireann acknowledging feasibility for the development to connect to same.

#### Wastewater Services

13.10.3. According to the applicant there is an existing 225mm / 300mm-diameter gravity foul sewer running along the northern side of the Luas line to the south of the site, which subsequently connects into a 900mm-diameter combined trunk sewer located 120m to the east of the site. According to the applicant a pre-connection enquiry was submitted to Uisce Éireann with correspondence in relation to same appended to the Engineering Assessment Report. Third-party observers assert that the 225mm-foul sewer that it is intended to discharge into is too small and that it is not on the lands in control of the applicant. Uisce Éireann responded to consultation relating to the application, confirming that a wastewater connection would be feasible subject to an upgrade of the 120m-long stretch of the existing 225mm / 300mm gravity sewer line. This would require a survey to confirm the capacity and integrity of the sewer, which I note would not be on lands stated to be in control of the applicant. Notwithstanding this, permission to develop the scheme would be subject to a connection agreement with Uisce Éireann and the applicant could agree to fund any necessary upgrade works being undertaken.

13.10.4. Third-party observers also assert that a foul water discharge entering into a foul sewer that connects into a combined water pipe network as not representing good planning practice. The Water Services Guidelines for Planning Authorities – Draft (2018) and the associated Circular FPS 01/2018 do not place any specific restrictions on connections to such infrastructure. Notwithstanding this, this combined sewer would be the responsibility of Uisce Éireann, who have not objected to the proposed development based on the capacity of their services to cater for and treat wastewater arising from the development. Observers also refer to constraints in relation to the capacity of Ringsend wastewater treatment plant (WWTP) to treat wastewater from the development, however, I note that the applicant's AA Screening and EIAR refer to the effluent from the development ultimately discharging into the Shanganagh WWTP. According to the applicant, based on the 2020 Annual Environmental Report, Shanganagh WWTP is operating within compliance and has capacity for the proposed development.

## Drainage

- 13.10.5. Within their Engineering Assessment Report the applicant sets out that the site currently drains surface water, unrestricted, towards the Carrickmines river to the south of the site. Stormwater sewers running along Brennanstown Road are not detailed on the applicant's drawings. The proposed development would alter the present drainage situation by attenuating the surface water on-site before discharging it at a greenfield rate into the Carrickmines river at an outfall on the southern boundary close to the Luas line walkway.
- 13.10.6. A new network of surface water sewers would be installed on site with various interception and storage measures to control the rate of discharge. Permeable paving, dry swales, filter drains and green roofs would be incorporated into the proposals as part of the interception and storage measures forming part of the surface water drainage proposals. The applicant asserts that 57% of the roof area within the development would comprise green roofs, thereby addressing the Council's green roof policy document, which is appended to the Development Plan. Attenuation is also proposed in the form of four geocell attenuation tanks, one tank beneath the podium and a stone-filled area connecting into a swale upstream of the outfall to Carrickmines river. According to the applicant the attenuation volume has been sized to cater for 1 in 100-year storm events, with a 30% freeboard for climate change effects, as required by the Planning Authority. The observers refer to the need for nature-based solutions, as opposed to hard-engineered drainage attenuation measures. I am satisfied that the approach undertaken by the applicant in identifying suitable surface water drainage measures for the development based on site conditions would appear reasonable, including the use of swales and green roofs.
- 13.10.7. The observers assert that the increased surface water discharges from the development and other developments would probably result in failure to meet WFD obligations for the catchment, with excessive siltation in the substratum of the Carrickmines river noted in a 2020 Environmental Protection Agency (EPA) water quality status review. The applicant asserts that the use of SUDS to control run-off also provides the additional benefit of reducing pollutants in the surface water by settling out suspended solids, and in some cases providing biological treatment. The proposed development would not have led to any previous asserted siltation issues



and it is only the direct impacts of this project that are being considered in this planning assessment. Fuel interceptors are proposed as part of the SUDS measures to address runoff from roads and parking areas. According to the applicant the SUDS measures proposed have been designed to ensure runoff would accord with the standards outlined in the Greater Dublin Strategic Drainage Study and other technical documents.

13.10.8. Observers assert that the appointed management company should be required to enter a service maintenance contract with an authorized, specialised company that has responsibility for the maintenance of SUDS infrastructure. The application included a Stage 1 Stormwater Audit document as part of their application that highlighted one item to be considered at detailed design stage comprising lining of attenuation structures to ensure the risk of cross-contamination of groundwater is mitigated against. The application proposals also include SUDS maintenance measures for the various elements proposed, which would be the responsibility of the site management team to undertake, with the various tasks and frequencies outlined in the Engineering Assessment Report. The Planning Authority was satisfied with the application surface water drainage proposals, subject to standard conditions, including further stormwater audits. I am satisfied that a reasonable approach to addressing surface water drainage has been proposed as part of the application and standard stormwater audits can be requested via condition to ensure the satisfactory undertaking and operation of the installed system.

#### Flood Risk

13.10.9. The applicant submitted a Flood Risk Assessment with the application indicating that the site was not at significant risk of flooding and asserting that the proposed site drainage measures would not adversely affect the public drainage system or contribute to downstream flooding. The applicant's Flood Risk Assessment noted that the nearest node associated with the Shanganagh-Carrickmines river fluvial flood extents study map prepared by the Office of Public Works (OPW) revealed a flood level 18m below the lowest part of the application site. I note that there are no watercourses on the site, and the fast-flowing Carrickmines river is situated a steep drop below the lowest part of the site on the southern boundary. The application site is not identified in the Development Plan as being within an area at risk of flooding. Measures such as attenuation of surface water, discharge of surface waters at

greenfield runoff rates and overland flood routes would mitigate against the potential pluvial flood risks. Groundwater flood risks were considered to be low given the depth to water levels recorded in trial holes on site.

- 13.10.10. The Planning Authority stated that the flood risk assessment undertaken by the application is in accordance with Development Plan requirements and they did not object to the development for reasons relating to flood risk. Following the approach set out within 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities', the site is within an area of low probability for flooding (flood zone C) and the proposed development is 'less vulnerable' and therefore appropriate for the site.

#### Conclusion

- 13.10.11. In conclusion, subject to conditions, I consider the water supply, wastewater and surface water drainage proposals to serve the proposed development are satisfactory, with sufficient details provided to allow for this conclusion to be reached. The proposed development would not be at substantive risk of flooding and it would not present substantive risk of flooding to other lands.

#### **13.11. Procedural Matters**

- 13.11.1. The observers have questioned the constitutional basis of the Building Heights Guidelines and the New Apartment Guidelines, including their respective SPPRs, asserting that the Board should refuse to consider and cannot grant permission for the proposed development if relying on these Guidelines. In this regard I note the High Court Judgement (ref. [2023] IEHC 178) delivered in April 2023 dismissing a Judicial Review on similar grounds and I am not aware of any subsequent decisions of any appeals of this judgement. Regardless, I don't believe the constitutional basis for these Guidelines or the strategic housing development process is a matter that comes within the remit of my assessment.
- 13.11.2. Observers refer to the possibility that the application site comprises lands that are not in control of the applicant adjoining two houses within Brennanstown Vale. I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of submitting the planning application and the issuing of a decision in relation to the proposals. Matters relating to the control of certain lands relating to

the application, may or may not be a civil matter to be resolved between parties, and I propose to proceed with my assessments having regard to the provisions of section 34(13) of the Act of 2000. Any further consents or agreements that may have to be obtained are essentially a subsequent matter outside the scope of the assessment of this planning application.

- 13.11.3. Observers assert that proposals fail to comply with article 297 of the Planning Regulations, based on the wording of the letter of consent submitted. The letter relates to the land forming part of the application site that is in control of the Planning Authority and I am satisfied that it is reasonable to consider the wording of the letter appropriate in confirming that the works suggested by the applicant would be capable of being achieved in this area.
- 13.11.4. Concerns were expressed with regard to site notice locations onto a busy road, however, in this regard based on the site location map and photographs submitted, the site notice locations appear to have complied with the relevant regulatory requirements. Observers also consider the development description to omit reference to the vehicular entrance into the Appledore property on the north side of Brennanstown Road. A new junction on Brennanstown Road is referenced in the development description and it was clear from the drawings submitted that this would entail a short section providing an access into Appledore. Observers had an opportunity to comment on this and the appropriateness of this is considered in the assessments.
- 13.11.5. Observers assert that the application, including the planning report, is contrary to planning legislation, including the EIA Directive, and that the applicant has provided insufficient and inadequate information with respect to the risk to human health, pollution, construction phase impacts, collision-risk for birds and bats, and the general impact on biodiversity and human health arising from the proposed development. Arising from the various assessments above and in the proceeding sections of my report, I am satisfied that sufficient information has been presented with the application to allow for thorough and comprehensive assessments of the impacts of the proposed development.

- 13.11.6. Observers refer to the Board as lacking the expertise or access to same in order to examine the EIA Screening Report submitted. An EIA Screening report was not submitted with the application.
- 13.11.7. Observers assert that certain matters should not be left over for agreement following the decision or determination with the assigned development contractor, due to concerns regarding public participation, which would be contrary to the requirements of the EIA Directive. The imposition of limits by conditions in any grant of permission, as set out below, is a typical, well-established statutory planning measure used in reinforcing the preservation of human health and the environment, where such conditions would not have material impacts on third parties.

### **13.12. Material Contraventions**

- 13.12.1. Under the provisions of section 9(6) of the Act of 2016, the Board may decide to grant a permission for a proposed strategic housing development where the proposed development, or a part of it, contravenes materially the Development Plan relating to the area concerned, albeit with exception to a material contravention of land-use zoning objectives and subject to circumstances provided for under section 37 of the Act of 2000, as outlined below.
- 13.12.2. The application contains a statement indicating why permission should be granted for the proposed development, having regard to the provisions specified in section 37(2)(b) of the Act of 2000, notwithstanding that the proposed development materially contravenes the Dun Laoghaire-Rathdown County Development Plan 2022-2028 with regard to a land-use zoning requirement, comprising the provision of a retail unit with a floor area exceeding 100sq.m. For reasons outlined above in section 13.2 and subject to the attachment of a condition omitting the retail unit from the proposed development or reducing its floor area to less than 100sq.m, I am satisfied that a material contravention with respect to current land-use zoning objectives for the site would not arise in the case.
- 13.12.3. The applicant's Material Contravention Statement addresses the potential for material contraventions to arise with respect to the proposed development and Development Plan provisions relating to building heights, car parking standards, building separation distances, unit mix, Brennanstown Road improvement objectives,

standalone childcare facilities and the retrofitting and reuse of buildings. For reasons outlined above, I am satisfied that material contraventions would not arise regarding car parking standards, unit mix, standalone childcare facilities and the retrofitting and reuse of buildings.

13.12.4. In addition to those matters addressed by the applicant in their Material Contravention Statement, observers also refer to the potential for material contraventions to arise with respect to the proposed development and the development density, public open space, ACA impacts, visual impact, SLO 73, policy objective PHP20 (protection of existing residential amenity), policy objective CA6 (retrofit and reuse buildings) and an objective to protect and preserve trees and woodland on site. For reasons outlined above, I am satisfied that material contraventions would not arise regarding the development density, public open space, ACA impacts, visual impacts, policy objective PHP20 (protection of existing residential amenity), policy objective CA6 (retrofit and reuse buildings) and an objective to protect and preserve trees and woodland on site.

13.12.5. As outlined in the assessment above, I am satisfied that material contraventions of the Development Plan could reasonably be considered to arise with respect to the proposed building heights, building separation distances and SLO 73 relating to a restriction of development along Brennanstown Road, pending a traffic management scheme addressing specific aims. The applicant addresses non-compliance of the proposals with these matters in their Material Contravention Statement and in such a situation it is open to the Board to consider the proposal in terms of material contravention procedures.

13.12.6. Section 37 of the Act of 2000 provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in circumstances where at least one of the following applies:

- (i) the proposed development is of strategic or national importance;
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned;
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations

of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government;

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

13.12.7. Observers assert that the proposed development is not of strategic or national importance. While I accept that the proposed development would contribute to the achievement of the Government's national policy to increase housing supply within the Dublin metropolitan area, as set out in 'Housing for All – A New Housing Plan for Ireland' (2021) and 'Rebuilding Ireland – Action Plan for Housing and Homelessness' (2016), given the extent of similar permitted and proposed developments in the immediate area and the wider metropolitan area, I am satisfied that it would not be reasonable to conclude that proposed development is of strategic or national importance. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(i) are not applicable with respect to the material contravention of the building heights, building separation distances and SLO 73 (Brennanstown Road traffic management scheme objective) provisions outlined in the Development Plan.

13.12.8. In relation to the matter of conflicting objectives in the Development Plan or objectives that are not clearly stated, as addressed in section 37(2)(b)(ii) of the Act of 2000, I am satisfied that this would not apply in this case, as the building heights and building separation distances are clearly stated and set out in the Development Plan. Notwithstanding this, I am satisfied that there is a lack of clarity with regard to SLO 73 (Brennanstown Road traffic management scheme) insofar as the proposed development is concerned, as it is not clear what area this traffic management scheme is intended to cover, what extent the aims of the SLO are to be achieved and if suitable alternative means of addressing the aims of the scheme would be capable of overcoming any issues arising. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(ii) are applicable with respect to the material contravention of the SLO 73 (Brennanstown Road traffic management scheme objective) provisions outlined in the Development Plan. However, this in itself would not justify permitting a development, if the alternative means of addressing the aims of the scheme and broader traffic safety issues cannot be addressed.

13.12.9. With regard to section 37(2)(b)(iii), as per my detailed assessments in sections 13.6, given the concerns raised with respect to the proposed building heights onto the shared-surface access route and failure to meet criteria at a street level, the proposed building height would not be in compliance with SPPR 3(a) of the Building Heights Guidelines, which references criteria set out in section 3.2 of these Guidelines. Given the concerns raised with respect to the potential for excessive direct overlooking and loss of privacy between proposed apartments in four locations, the proposed building separation distances would not be in compliance with SPPR 1 of the Sustainable Settlements Guidelines. Furthermore, I am satisfied that there are no guidelines under section 28 or policy of the Government set out in the NPF and the RSES that would justify the case overcoming SLO 73 of the Development Plan. Having regard to the provisions of section 37(2)(b)(iii) of the Act of 2000, I am satisfied that a material contravention is not justified in this case with regard to building heights, building separation distances and SLO 73 (Brennanstown Road traffic management scheme objective) provisions outlined in the Development Plan, having regard to guidelines under section 28 and policy of the Government set out in the NPF and the RSES.

13.12.10. In relation to section 37(2)(b)(iv) of the Act of 2000, I am not aware of any recently approved planning permissions for developments comprising eight to ten storeys in this area, or building separation distances of less than 22m in this area. Permission to redevelop the Doyle nurseries site (ABP ref. 305859-19) provided for improvements to a 450m stretch of the northeastern end of Brennanstown Road leading to Cabinteely village, while the recently completed Brennanstown Woods development (ABP ref. 301614-18) has also resulted in improvements to a 250m stretch of the western end to Brennanstown Road, although these developments were considered under the terms of the previous Development Plan for the 2016-2022 period. I am satisfied that the pattern of development and permissions granted in the area since the making of the development plan, would not justify permitting the proposed development contravening the building heights, building separation distances and SLO 73 (Brennanstown Road traffic management scheme objective) provisions outlined in the Development Plan under the provisions of section 37(2)(b)(iv) of the Act of 2000.

- 13.12.11. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan policies pertaining to building height and separation distance, I do not consider that the provisions of section 37(2)(b) have been met. Should the Board be minded to invoke the material contravention procedure, as relates to SLO 73 (Brennanstown Road traffic management scheme objective) of the Development Plan, I consider that the provisions of section 37(2)(b)(ii) have been met, however, this in itself would not justify granting permission in this case.

## **14.0 Environmental Impact Assessment**

- 14.1.1. This section sets out an EIA of the proposed project and should be read in conjunction with the planning and appropriate assessment sections of my report. The Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018) have guided this section of my report. According to the Planning Authority the environmental impacts of the project would not be significant.
- 14.1.2. The development provides for 534 residential units, a retail unit and a childcare facility on a gross site area measuring 3.81ha in the Dun Laoghaire-Rathdown County Council area. The site would extend further to account for the upgrade of the 120m-long stretch of the foul water sewer following the Luas line. Several of the topics and issues raised by the observers that concern environmental matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid repetition.
- 14.1.3. Item 10 of Part 2 to Schedule 5 of the Planning Regulations and section 172(1)(a) of the Act of 2000 provides that an EIA is required for infrastructure projects that involve:
- (b) (i) construction of more than 500 dwelling units;
  - (b) (iv) 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;
- 14.1.4. The current proposal is an urban development project that would be in a built-up area, but not in a business district. As the proposals comprise more than 500



dwelling units, the project is within the class of development described in items 10(b)(i) above, thereby requiring an EIA to be undertaken.

- 14.1.5. According to the Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018), the developer must include a non-technical summary in their EIAR. The EIAR submitted with the application comprises a main report (Volume I), appendices (Volume II) and a non-technical summary (Volume III), alongside standalone reports as part of the application. Mitigation measures and monitoring for the project is described throughout the EIAR chapters and a summation of same has been presented within Chapter 17 of the EIAR. The introductory chapter and the introductions to each of the EIAR chapters describe the qualifications and competencies of those involved in the preparation of the EIAR.
- 14.1.6. As is required under Article 3(1) of the EIA Directive 2014, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors; (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water; air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between factors (a) to (d).
- 14.1.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with Article 94 of the Planning Regulations. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014 relating to the need for certain information to be provided as part of the EIAR. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the Planning Authority, the prescribed bodies and members of the public, which are summarised above in sections 9, 10 and 11 of this report. For the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information, and this is demonstrated throughout my overall assessment.

## 14.2. Vulnerability of the Project to Major Accidents and/or Disaster

- 14.2.1. The requirement of Article 3(2) of the EIA Directive 2014 includes consideration of the expected effect deriving from the vulnerability of a project to risks of major accidents and / or disaster relevant to the project concerned. The EIAR specifically addresses the issue of major accidents and / or disasters within chapter 16 when addressing the interrelationship between factors. Categories of risks considered include those at construction phase, human health, as well as flood risks. Given the nature of the receiving environment and the characteristics of the proposed project, it is considered that there is no linkage factor of a hazard that could trigger what would constitute major accidents or disasters. The project features proposals cognisant of the risk of flooding and the compliance with a final project CEMP, as well as good work practices, such as health and safety guidance, would limit the risk of accidents during construction.
- 14.2.2. The site is not within a notifiable zone for a Seveso site, the nearest of which is located over 14km to the northwest of the application site in the Fox and Geese / Bluebell area. A buffer would be provided between the Luas line, although clarity is required with respect to the treatment of the boundary with the Luas. Proposals have been designed with modest building heights and with measures to address road safety. Low risks of landslide events were concluded for the site.
- 14.2.3. The vulnerability of the proposed project to major accidents and / or disasters is not considered significant. The proposed development is primarily residential in nature and will not require large-scale quantities of hazardous materials or fuels. In conclusion, I am satisfied that the proposed uses are unlikely to present significant risk of major accidents or disasters. Having regard to the location of the site, as well as the zoning of the site, I am satisfied that there are unlikely to be any significant effects of the project deriving from major accidents and / or disasters.

## 14.3. Reasonable Alternatives

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

*(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an*

*indication of the main reasons for the option chosen, taking into account the effects of the project on the environment,*

14.3.2. Annex (IV) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

*2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*

14.3.3. Chapter 2 of the EIAR provides a description of the range of alternatives considered, including alternative locations, alternative processes, alternative layouts and designs, and a do-nothing scenario. If the development were not to take place, the lands would remain in the present form featuring two vacant houses and a tower structure, with an opportunity lost to provide 534 residential units, a retail unit and a childcare facility on zoned land, as well as enhanced connectivity to the greenline Luas services. I also note that the proposals would provide for an upgrade of a section of Brennanstown Road and an opportunity through agreement to upgrade a 120m stretch of an existing foul sewer.

14.3.4. As the application site lands that are intended to accommodate the proposed housing element of the project are zoned in the Development Plan ‘to provide for residential development and improve residential amenity while protecting the existing residential amenities’, as well as the fact that the environmental sensitivities of the site are not such as to preclude development per se, I am satisfied that alternative locations would not need to be considered in detail. The permitted in principle and open for consideration uses for this site are prescribed within the zoning objectives in the Development Plan, which facilitate the development of the site for build-to-rent housing and other restricted potential uses.

14.3.5. The process in arriving at the subject proposals, including consultation with various parties and design team deliberations, is provided as part of section 3 to the applicant’s Urban Design Report and section 2.6 of the EIAR, including the alternative designs and layouts considered. Various opportunities and constraints in relation to the development of the site and an adjoining property to the west, known

as Áras Eibhear, in particular the road upgrade, Luas line access, trees, the Protected Structure, topography and the immediate surroundings, are stated to have influenced the design and scale of the final proposed project, as presented. It is clear from the various documents submitted as part of the application, including the Landscape Design Statement, the Energy and Sustainability Report, Quality Audit, Engineering Assessment Report and the Building Lifecycle Report, that numerous reasonable alternatives needed to be considered in arriving at the finalised scheme. The Building Lifecycle Report and Energy and Sustainability Report refer to the various options being considered in order to achieve energy efficiencies and carbon reductions.

- 14.3.6. I am satisfied that at the time of lodging the application, there were no alternative processes having regard to the nature of the proposed project relative to the planning context. The overall approach of the applicant in considering alternatives appears reasonable, and I am satisfied that the requirements of the EIA Directive 2014 with regard to the consideration of 'alternatives' has been met.

#### **14.4. Consultations**

- 14.4.1. During the application process, the applicant consulted directly with An Bord Pleanála, Uisce Éireann and various sections within Dun Laoghaire-Rathdown County Council, as well as the prescribed bodies listed in section 5.2.2 above. The applicant states that the application details were available to view on a dedicated project webpage. Observers refer to a lack of engagement by the applicant with residents and the Planning Authority. The Planning Authority request that the EIAR recommendations are implemented in full.
- 14.4.2. Public participation and consultation are an integral part of the strategic housing development process. Direct and formal public participation in the EIA process was undertaken through the statutory planning application process under the strategic housing development procedures. A link to the application and the EIAR was available from the EIA portal webpage of the Department of Housing, Local Government and Heritage, as well as the Board's website. I have taken into consideration all submissions received during the application process as part of this assessment. I am satisfied that the participation of the public has been effective,

and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

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

14.5.1. The likely significant direct and indirect effects of the development are considered under the headings below, which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity;
- land, soils and geology;
- water;
- air and climate;
- noise and vibration;
- material assets (utilities, transportation and waste);
- cultural heritage (archaeological and architectural);
- landscape;
- the interaction between those factors.

#### **14.6. Population and Human Health**

14.6.1. Impacts on population and human health are addressed in Chapter 4 of the EIAR.

The methodology for the assessment is described, as well as the study area receiving environment and sources referenced. The assessment considers attributes and characteristics associated with local land uses and activities, demographics, neighbouring facilities and services, transport and human health.

14.6.2. In terms of human health, the most likely impacts would be during the construction phase of the development, which could arise from changes in air quality, increased noise and vibration, increased traffic and demand for supporting services. The report from the Environmental Health Office in the Planning Authority asserts that the development would not be acceptable due to the impact on human health during

excavation, demolition and construction. These comments appear to relate to the approach undertaken by the applicant with respect to noise surveying.

- 14.6.3. The various construction practices are outlined within the EIAR, including development phases, excavation works, foundation types and expected machinery and traffic. Given the control of activity on site by the developer, the construction activities and their associated emissions and impacts can be controlled to appropriate levels through the use of standard management measures, including those set out in the EIAR, the Resource and Waste Management Plan (EIAR appendix 17.1) and a final CEMP. The measures in the applicant's preliminary CEMP and the mitigation measures within the EIAR outline how the proposed works would be delivered safely and in a manner that minimises risks to human health, including the control of construction hours, noise and vibration measures and containment of soils for reuse. The imposition of limits by conditions in any grant of permission would further reinforce the preservation of human health. With the implementation of remedial and mitigation measures, the proposed development would not have significant adverse effects on human health.
- 14.6.4. Other aspects of the development potentially impacting on air quality, noise, vibration, employment, travel and landscape are considered in the EIAR with respect to their likely effects on the local population. Mitigation measures in the form of restricted construction hours, road upgrade, travel plans, adherence to construction traffic management plan measures and finalisation of a CEMP to include a dust and noise minimisation measures are stated. Short-term positive impacts would arise from the additional economic activity associated with the project.
- 14.6.5. In terms of noise and vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be primarily a residential scheme within an existing built-up area. The operational phase of the development would be unlikely to have substantive impacts on the amenities of neighbouring properties, with substantive separation distances between the nearest proposed residential properties and the Luas line. Visual impacts following the completion of the development are considered further below, and while altering the appearance of the lands, the development would not be expected to have significant visual impacts,

particularly as landscaping matures on site and the local population becomes accustomed to the development.

- 14.6.6. The development itself would be likely to have significant direct positive impacts with regard to population and material assets during the operational phase, due to the increase in housing stock. Improved permeability and connectivity with local services and infrastructure, in particular the Brennanstown greenline Luas stop, should be realised to the benefit of the local population.
- 14.6.7. Based on the housing mix, the population of the area would increase substantially by approximately 1,500 consequent to the operation of the proposed development, which could have a positive impact. When operational, the proposed childcare facility would be capable of supporting residents of the development, while the retail unit would serve the wider community. The proposed public open spaces would be of benefit to the future development residents, as well as the wider community. Waste management measures would be necessary to ensure negative impacts on residents of the scheme would not arise. The proposals would support the continued operation of existing local services and provide additional critical mass to support justification for additional local services, including schools if necessary.
- 14.6.8. I am satisfied that potential effects on population and human health, particularly during the construction phases, would be avoided and managed by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, secondary or cumulative effects on population and human health.

#### 14.7. **Biodiversity**

- 14.7.1. Chapter 5 of the EIAR addresses impacts on biodiversity with particular attention for species and habitats protected under EU Directives 92/43/EEC and 2009/147/EC. The biodiversity chapter details the survey team and methodology for the assessment and fieldwork undertaken between March 2020 and March 2022, with additional bat surveys since 2018. Habitats identified on site are listed and illustrated in figure 5.8 of the EIAR. It is noted that an Ecological Impact Assessment, an AA Screening report and a NIS for the project were provided as

separate standalone documents accompanying the application. Section 11 of my report assesses the proposed development in the context of the conservation objectives for designated European sites within the zone of influence of the project.

- 14.7.2. Based on the 'Fossitt habitat classifications', the intended housing area of the application site can be primarily categorised into dry meadows and grassy verges (GS2), scrub (WS1), buildings and artificial surfaces (BL3), recolonising bare ground (ED3), spoil and bare ground (ED2), hedgerows (WL1) and treelines (WL2). The proximity of the site to Carrickmines river is noted, including the potential for surface water runoff to discharge from the site to this watercourse, which is known to host otter and brown trout. The applicant considers a drainage ditch adjacent to the road, with potential for the site to be used by Common Frog. Plant or mammal species listed as being of the alien invasive variety under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011, were not recorded on the site. Observers refer to the important ecological value of Glendruoid valley woodlands with potential to be a natural heritage area (NHA). Habitats of National or international conservation importance were not recorded on site during the applicant's field surveys, although data would suggest records of various species in the wider area. Evidence of badgers or otters using the site was not recorded. Evidence of fox using the site was recorded. During surveys a total of 16 bird species were recorded, as well as redwing flying overhead. The evidence collated from surveys would not suggest that the lands are important foraging grounds for birds.
- 14.7.3. Surveys recorded bats foraging on site and roosting in the tower structure, which was known in advance to be of low conservation significance for bat roosts. Common pipistrelle, Daubenton's and Brown long-eared bats were recorded as using Barrington tower for roosting. In addition to this, Soprano pipistrelle, Leisler's and Myotis spp. were recorded as commuting and / or foraging on site. According to the applicant, a total of 22 mature trees on site feature some potential to be used as bat roosts, although no bats were recorded roosting in these trees, each of which are proposed to be felled.
- 14.7.4. Section 5.4 of the EIAR describes the potential impacts of the proposed development on biodiversity. The development would result in the loss of bat foraging and commuting habitat and potential roosting habitat via the removal of



hedgerows and trees, and the loss of bat roosts during the conservation works to Barrington Tower. The loss of this habitat is expected to have slight to moderate negative impacts for bats. Potential impacts to downstream habitat in the Carrickmines river are also identified, as well as the loss of foraging and nesting habitat for birds arising from the site clearance works.

- 14.7.5. Measures to minimise the impact of the development on biodiversity, include the supervision of works by qualified personnel, protection of the riparian corridor in construction and operation phases, a finalised lighting scheme sensitive to bat species, restricting clearance works outside of the bird-nesting season and the protection of water quality. As landscaping matures on site during the operational phase the biodiversity value of the site would be enhanced. Section 5.11 lists the various mitigation measures, including the construction of a bat house close to the river channel prior to works on Barrington Tower and the erection of 60 bat boxes. Lighting would be undertaken in a manner as directed by the project ecologist and sensitive to treelines and hedgerows. With respect to the adjoining Glendruid woodland and in addition to the mitigation highlighted above, tree protection measures are proposed as part of the development, which I am satisfied would aid in mitigating against any significant impacts on this neighbouring habitat.
- 14.7.6. The Planning Authority consider the proposals to be suitably considerate of bird or bat-sensitive areas and the measures to address impacts on bats and water quality, as set out by the Minister for Housing, Local Government and Heritage in their submission, can be reinforced as part of the project final CEMP. The design of the proposed development appears to largely address the potential primary impacts on habitats on and off the site via mitigation measures. Cumulative impacts alongside other developments in the vicinity are considered, although no significant impacts alongside these projects are predicted to arise.
- 14.7.7. Having regard to the foregoing, including the ecological value of habitat on site and, with the exception of bat species, the limited recordings and evidence of species present on site, it is not likely that the proposed development would have significant effects on biodiversity. Mitigation measures to address impacts to bat species have been set out in detail and would appear to be suitable in addressing impacts on bats. I have considered all of the written submissions made in relation to biodiversity and I am satisfied with regard to the level of information presented and available, which

allows me to conclude that the potential effects on biodiversity would be avoided, managed and addressed by the measures that form part of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, secondary or cumulative effects on biodiversity.

#### **14.8. Land, Soil & Geology**

- 14.8.1. Chapter 6 of the EIAR deals with land, soils and geology. This section of the EIAR was supported by a Site Investigations Report. An array of testing was undertaken as part of the site investigations undertaken, including trial pits, cable percussion, rotary core boreholes, soakaway tests, foundation pits and California bearing-ratio tests. Investigations confirmed that the site features brown slightly-sandy, slightly-gravelly clay under topsoils with an average thickness of 1m, and with boulders or weathered bedrock at 0.3m to 5.8m. Geological Survey of Ireland (GSI) surveys indicate a bedrock geology dominated by granite.
- 14.8.2. Teagasc soil mapping indicates that the site features deep, well-drained mineral soils. Groundwater vulnerability is calculated as low to extreme with rock at surface or karst, and the bedrock aquifer underlying the site is described by the GSI as a poor aquifer that is generally unproductive except for local zones. Karst features are not located on site. There are no County geological sites within the immediate area of the application site, with Killiney Bay coastline (ref. DLRC007), the closest of such sites. The EPA online mapping service shows that 10% of more of homes in the immediate area are estimated to feature high-radon levels.
- 14.8.3. The construction phase of development would require the stripping of 5,440m<sup>3</sup> topsoil, as well as excavation works amounting to 59,700m<sup>3</sup> for services and basement foundations. Construction phase impacts are also likely to arise from cut and fill works, the storage of excess materials, excavation of subsoils, storage of hazardous materials and potential contamination to ground. Limited effects on bedrock geology would only be likely based on the bedrock depths surveyed. The applicant estimates the surplus volume of cut material following reuse as fill, would amount to 63,690m<sup>3</sup> of material, with 1,410m<sup>3</sup> clean materials to be imported onto the site.

- 14.8.4. The proposed development would result in an intensified use of land on the outskirts of Dublin city primarily for residential use, as well as open spaces and access to Luas services. Other than facilitate a service access to a Luas substation, these lands do not appear to be in use for a particular purpose at the moment, with the two houses on site vacant and falling into disrepair. Given that the proposed development would provide for additional residential uses, this is not considered to be a significant effect of the project.
- 14.8.5. The proposed development would need to be undertaken in a manner to protect the most sensitive areas, with a final project CEMP to be prepared based on various standards, addressing all measures to reduce impacts on soil, geology and hydrogeology. Inert soils were only encountered during surveying, however, soil from excavated made ground would be stockpiled and analysed, prior to disposal to a licensed waste disposal contractor if necessary. Management measures for the construction phase are outlined, including various measures to control fuel, chemicals, contaminants, importing and exporting of soils, concrete works and welfare facilities. A geotechnical engineer will oversee measures to address slope stability and internal haul routes would be employed to address unnecessary compaction of soils outside of the main excavation areas.
- 14.8.6. Standard construction practices, including monitoring of measures to address the potential risk of pollution to soils and groundwater would be followed through as part of the final project CEMP. Any demolition or excavated materials that would not to be reused on site would be required to be exported to a suitably licensed facility, as per the approach set out in the application Resource and Waste Management Plan. Substantive on-site storage of fuels would not be necessary during the operational stage with heat pumps, solar photovoltaics or combined heat and power being considered for heating the development. It is therefore unlikely that the proposed development would have significant effects with respect to soils and geology on site.
- 14.8.7. In considering the cumulative impacts of the proposals, the applicant refers to Brennanstown Wood development (ABP ref. 301614-18) and the Doyle nurseries permission (ABP ref. 305859-20). Brennanstown Woods development is nearing completion and these permitted projects would be subject to separate measures and controls to address impacts on land, soil and geology.

14.8.8. I am satisfied that the identified impacts on land, soils and geology, would be avoided and managed by the measures that form part of the project, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the project would not have any unacceptable direct, indirect, secondary or cumulative impacts in terms of land, soils and geology.

#### 14.9. **Water**

- 14.9.1. Chapter 7 of the EIAR addresses the impacts of the proposed development on hydrology and hydrogeology. This section of the EIAR was supported by a Hydrogeological Assessment appended to the EIAR, establishing the hydrogeological regime at the site, determining if dewatering would be required, determining any impacts on sensitive downstream receptors, and determining if obligations under the WFD would be impacted. Observers assert that increased treated and attenuated surface water discharges from the development and other developments would probably result in failure to meet WFD obligations for the associated catchment.
- 14.9.2. According to the applicant there are no watercourses on the site, with a pond and a well identified on historical maps of the area no longer in evidence within the boundaries. The ground on site falls southeast towards the Carrickmines river and the surrounding watercourses all flow eastwards to the Irish sea. The Carrickmines river joins the Cabinteely stream (Loughlinstown river) 1km to the east of the site before joining with the Shanganagh river approximately 2km from the application site, and finally discharging to the Irish sea at Killiney bay.
- 14.9.3. Under the WFD the overall status of the Wicklow groundwater body (EPA ref. IE\_EA\_G\_076) underlying the application site, was assessed as being 'good' (between 2016 and 2021), although this waterbody is considered 'at risk' of not achieving good water quality status for the purposes of the WFD. The proposed development site lies within the Ovoca-Vartry catchment and hydrometric area, and the Dargle sub-catchment (EPA ref. I.D. 10\_5). Under the WFD, the Carrickmines river and downstream fresh watercourses feature 'good' water quality status and they are 'not at risk' of achieving good water quality status for the purposes of the WFD. The Southwestern Irish sea – Killiney Bay (HA10) coastal waterbody (EPA ref. IE\_EA\_100\_0000) is assigned a 'high' water quality status, with this waterbody

‘not at risk’ of achieving good water quality status for the purposes of the WFD. Groundwater vulnerability is identified as being ‘extreme’ across the site with a portion of the site towards the eastern site boundary assigned as featuring ‘rock at or near surface’. Groundwater levels were encountered at depths of between 1.8m and 9.2m at the six monitored locations. A surface water outfall would be constructed at the Carrickmines river and with agreement from Uisce Éireann, as part of the project it is intended to upgrade a 120m-long section of a foul sewer running parallel with the Luas line to the south of the application site.

- 14.9.4. Impacts to water arising from the proposed development could potentially arise from excavation, dewatering and other associated construction phase activities, such as hydrocarbon or sediment release, and accidental spills and leaks. Potential operational phase impacts to groundwater and surface water could result from recharge regime arising from the increased hardstanding area, the need to provide a water supply and the foul and surface water management proposals.
- 14.9.5. With reference to the protection of water during construction, the applicant refers to the use of a final project CEMP, as well as the various surface water management measures to control run-off during construction, including buffers, silt / sediment traps, fuel interceptors, settlement measures and consideration of environmental conditions. Buffers to prevent sediment run-off to the Carrickmines river and the any crossings or works such as the surface water outfall would be undertaken in accordance with methods outlined in a final CEMP and various requirements, including Inland Fisheries Ireland ‘Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters’ (2016).
- 14.9.6. The potential impacts for water arising from earthworks, site clearance, excavations, stockpiling and discharges would be typical for construction projects involving extensive housing proposals. Inspection and maintenance of the drainage network over the construction phase would be required. Standard construction measures to avoid pollution of waters are to be used and these are described in section 7.8 of the EIAR. The efficacy of such measures, including control of surface water runoff via directional flows to provide for treatment, monitoring of environmental conditions and fuel storage, all managed as part of a final CEMP, are well established in practice. Audits of the stormwater network would also be undertaken for the operational phase of the development to ensure the effectiveness of this network.

- 14.9.7. Following SUDS measures, including attenuation and interception systems, flow-control devices and fuel interceptors, the surface water from the site would drain into the local watercourse. Subject to standard requirements, as well as infrastructure upgrades, feasibility to connect to local Uisce Éireann water supply and wastewater networks was confirmed for the proposed development. The Minister for Housing, Local Government and Heritage was satisfied that the suite of mitigation measures in the application CEMP and NIS should prevent mobilisation of polluting materials from the development to the Carrickmines river, and these measures should be incorporated and implemented as part of the final project CEMP.
- 14.9.8. The proposed project was subject to a site specific Flood Risk Assessment in accordance with the OPW Flood Risk Guidelines, and this was included with the planning application as a separate document. As discussed in section 13.10 above, based on the recorded data available and site investigations, the site is located in Flood Zone C where the risk of flooding would be very low. The proposed surface and storm drainage system has been designed to retain a 1-in-100 year storm event plus a 30% climate change factor, therefore, the proposed development would address the risk of flooding on site to the requisite standards and would not increase the potential for flooding to the receiving catchment. Regular maintenance and operation of the drainage system would be implemented to address the potential for human or mechanical error. Cumulative impacts to water alongside other projects have also been addressed as part of the EIAR.
- 14.9.9. I have considered all of the written submissions made in relation to water and the relevant contents of the file, including the EIAR. I am satisfied that the identified impacts on water, would be avoided and managed by the measures that form part of the project, the proposed mitigation measures and through suitable conditions. I am satisfied that the project would not have any unacceptable direct, indirect, secondary or cumulative impacts on water.

#### **14.10. Air and Climate**

- 14.10.1. Air quality and climate are addressed in chapter 9 of the EIAR. The proposed residential units, retail unit and childcare facility would not accommodate activities that would typically cause emissions that would be likely to have significant effects on air quality or climate. Baseline conditions and traffic modelling, amongst other

criteria, has guided these aspects of the EIAR. Existing air quality information based on similar locations was sourced from EPA data in order to allow for modelling of future scenarios.

14.10.2. Impacts to climate during the construction phase arising from increased greenhouse-gas emissions to the atmosphere are considered . Based on the Institute of Air Quality Management document 'Guidance on the Assessment of Dust from Demolition and Construction' (IAQM, 2014) the applicant asserts that the traffic and plant associated with the construction phase of the project is unlikely to make a significant impact on climate. Carbon budgets based on the size, nature and design of the project, including the embodied carbon dioxide arising from the demolition works, as well as the production and construction processes have not been calculated, however, this would be expected to be an imperceptible impact on residential building sector budgets. Mitigation measures for climate change purposes during the construction phase are stated to generally consist of reuse and recycling of materials, sourcing materials locally, minimising waste, limiting and maintaining machinery and plant operation.

14.10.3. Estimates and quantities of potential greenhouse-gas emissions from the operation phase of the project are referenced in the EIAR. Based on EU carbon budgets and in order to meet various commitments, according to the applicant the development is predicted to amount to 0.00013% of Ireland's annual greenhouse gas emissions in 2026 during the operational stage. An Energy and Sustainability Report accompanied the application listing the design details to reduce the impact on climate during the operational phase, including high energy-efficiency ratings and performance criteria for buildings, compliance with regulatory requirements and all parking capable of facilitating electric-vehicle charging. Any interim alteration in terms of energy efficiency targets and climate change limits would not be materially impacted by the subject proposals, given its very limited proportionate impact relative to Irish emissions limits. High-performance buildings are stated to be proposed in order to reduce the amount of energy required by the development and green infrastructure is also proposed to encourage pedestrian and cycle use.

14.10.4. I am satisfied that the operation and construction phase environmental impacts of the proposed development on climate would be long-term, minor adverse and not significant, given the quantified scale of the emissions arising from the proposed

development relative to the current Irish limits, with the design of the development featuring various energy-efficiency and performance measures to address regulatory requirements.

14.10.5. As would be expected, there is potential for dust emissions to occur from earthworks, construction works and vehicular movements during the construction phase to sensitive receptors and the atmosphere in the vicinity. Section 9.7 of the EIAR outlines the measures proposed to mitigate impacts on air quality, including those outlined in a dust management plan, which would include monitoring and assessment during the construction phase to address dust deposition impacts arising on the site boundaries to ensure mitigation measures are working satisfactorily. Potential air quality impacts on designated ecological sites can be scoped out based on the separation distances from the works to designated ecological sites and the surveyed habitats on site.

14.10.6. Traffic volumes for the operational phase of the development have been modelled and significant impacts are not envisaged for air quality primarily as the expected air pollutant concentrations would be in compliance with the respective air quality standards. Other projects within 350m of the site would need to incorporate their own dust management and minimisation measures, and any potential cumulative impacts arising would be short term.

14.10.7. I have considered all of the written submissions made in relation to air quality and climate impacts. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, secondary or cumulative impacts in terms of air quality and climate.

## **14.11. Noise and Vibration**

14.11.1. Noise and vibration impacts are addressed in chapter 8 of the EIAR. Both the outward impact of the development and the inward impact of noise and vibration sources on the development itself were considered. Given the nature of the proposed development and its urban location, it would have the potential for significant impacts to neighbouring properties, arising from noise emissions during



the construction phase. Observers have raised concerns with respect to increased disturbance, including from noise emissions. The Environmental Health Office in the Planning Authority requested that a noise impact assessment should be completed and the layout amended to address the recommendations of this report with shortfalls in the noise surveys.

14.11.2. The applicant refers to the guidance used with regards to surveying noise, the assessment of noise, noise limit levels and vibration levels. The applicant sets out that the site context was initially considered, and noise levels were surveyed in June 2021 from a total of four attended and unattended locations to provide a baseline noise environment. Background noise is considered to largely arise from road traffic movements, including those along Brennanstown Road and more distant movements along the M50 motorway. EPA noise mapping is also referenced, including data relating to motorway traffic and Luas line movements.

14.11.3. Noise and vibration impacts would be most likely to arise during the construction phase of the development with potential nuisance for neighbouring receptors arising from site clearance, excavation and foundation works. Particular noise sources would arise from the excavation works, including machinery operation and the construction traffic movements. The nearest sensitive receptors to the application site are identified and the modelling undertaken provides a reasonable representation of the background noise environment to inform the assessment. The assessment asserts that construction noise levels reveal that there is potential for the maximum permissible daytime noise levels to be exceeded at distances up to 30m from the works. This indicates that additional mitigation measures will be required to prevent likely significant impacts at residential properties. Noise mitigation measures are set out in section 8.8 of EIAR for the construction phase comprising the selection of quiet plant, noise control at source, public liaison, adherence to a project programme and screening. The suite of measures that would be employed would generally serve to restrict noise and vibration levels to reasonable levels cognisant of the nearest sensitive receptors, while also providing scope for additional measures to be employed should the need arise.

14.11.4. The operational stage future noise environment was modelled, mapped and assessed to identify likely requirements to address noise impacts in particular those associated with the traffic movements along Brennanstown Road. The applicant

asserts that a change in noise level of greater than 3dB(A) would only arise for one of the five neighbouring road junctions assessed, therefore, negligible increase in traffic noise would arise for four of the junctions. The increase in traffic noise level from the proposed entrance to the development onto Brennanstown Road would increase noise levels at this junction to 52dB L<sub>den</sub> in 2041, although this is considered to match noise levels surveyed at this location at present. The outward impact of traffic from the proposed development on neighbouring properties would have an imperceptible long-term, neutral effect on noise according to the applicant. In meeting noise criteria for plant, building services would not have a negative impact for sensitive neighbouring receptors during the operational phase.

14.11.5. Vibration during the construction programme is primarily associated with the ground-breaking activities, which would be of short-term duration. The applicant refers to 'BS 5228-1:2009 +A1:2014: Code of Practice for Noise and Vibration Control on Construction and Open Sites – Part 2: Vibration' and 'BS 7385:1993 – Evaluation and measurement for vibration in buildings', as well as other guidelines and criteria in providing guidance and standards for the vibration impacts. Vibration impacts at sensitive receptors during the construction phase would not arise in a manner that would be significantly intrusive or capable of giving rise to structural damage to buildings. Liaison with the public, including neighbouring residents, would alleviate the impacts arising from vibration during the associated construction works. According to the applicant, cumulative impacts from noise and vibration are not expected with the assessment based on modelling accounting for additional traffic associated with other developments, as well as the noise from existing sources. Based on projects of a similar nature and context, the details provided, including mitigations measures, I am satisfied that substantial vibration impacts for neighbouring receptors would not occur.

14.11.6. The EIAR outlines the noise level standards to be achieved in the proposed residential living areas, in particular allowing for the potential increase in road traffic. Low to medium risks were identified and the noise assessment allowed for more focused estimation of the impacts of noise on the proposed development during nighttime and daytime hours, relative to expected standards. Taking into consideration the additional facade noise attenuation measures to be incorporated into the design, comprising glazing, wall construction and mechanical ventilation, the

internal noise levels would be within the prescribed limits for nighttime and daytime hours. Building and mechanical plant equipment would be selected to comply with relevant technical noise criteria for the operation of this equipment.

14.11.7. I have considered all of the written submissions made in relation to noise and vibration. I am satisfied that the identified impacts, including potential for significant impacts to arise for neighbouring residences and future occupants of the proposed development, would be avoided, managed and mitigated by the measures that form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, secondary or cumulative impacts in terms of noise and vibration.

#### **14.12. Material Assets**

14.12.1. Material assets specifically addressing transportation are dealt with in chapter 11 of the EIAR. As noted above, the development is likely to have a significant impact on material assets by increasing the housing stock that would be available in this urban area, while also providing additional local services, additional infrastructures, public open space and an access to the greenline Luas services.

14.12.2. A Traffic and Transport Assessment was provided as part of the application, with traffic surveys undertaken in June 2021 at five junctions along Brennanstown Road and data collected from a survey in February 2019 for the east end junction of Brennanstown Road utilised in forecasting models. The array of existing transport services and infrastructures serving the site are noted, including the locations of bus stops, Luas stops and the extent of services operated locally. TII refer to the absence of a bus capacity assessment, with only a Luas Capacity Assessment provided by the applicant. The applicant refers to the subject development as not relying on bus services to provide high-quality public transport options for the development. A travel plan with transport options has been prepared for the development with details of the various services available and envisaged for the area referenced.

14.12.3. Vehicle movements to and from the application site would vary considerably between the construction and operational phases of the development. Estimates

regarding the extent of construction phase traffic movements are not presented in the EIAR, including the number of persons that would be expected to be employed on site at any one stage, or movements associated with deliveries and waste removal, including the extensive 63,690m<sup>3</sup> of materials to be removed from the site. Mitigation measures to address the impacts of traffic and transport during the construction phase relate to the adherence to measures within a final CEMP. The construction-phase movements are likely to result in temporary negative traffic impacts. The construction phase impacts on traffic would be primarily addressed as part of the construction traffic management plan and the monitoring of the performance of same.

14.12.4. The analysis undertaken indicated that the four junctions assessed to the west of the site are currently operating within capacity. With 15% of the traffic estimated to take a right turn when exiting the proposed development, the Brennanstown Road / Bray Road junction east of the site would continue to operate within capacity. For the three junctions assessed closest to the site at Carrickmines Wood, Brennanstown Wood and Brennanstown Vale, traffic would continue to operate within capacity. When the proposed development is completed, the degree of saturation (DoS) of peak hour traffic relative to the capacity of the four arms approaching junction 1 (Brennanstown Road / Glenamuck Road / Claremont Road / Brighton Road) would be between 7% and 103%. A DoS below 90% is representative of a junction operating in an efficient and stable condition, while a DoS value of 100% is representative of demand and capacity being equal with further traffic unable to progress through the junction. The information suggests that during the morning and evening peak hours, traffic at junction 1 would operate at or above capacity on the Brennanstown Road approach arm with queue lengths of 26 to 28 vehicles. The applicant asserts that this operational capacity constraint arising from the project would be expected only for a short period in the morning and evening peak hours, with the junction expected to operate with better operational capacity for the remainder of the day.

14.12.5. While traffic flows nearing capacity, at capacity or above capacity during peak periods would not be uncommon in many of our built-up urban areas, the calculated scenario with respect to the Brennanstown Road approach to junction 1 would be compounded by shortfalls identified above with respect to traffic figures collated

during post-primary school holidays and Covid restrictions, as well as the failure to consider the traffic associated with the access to the new Luas stop and the fact it is an objective of the Planning Authority to undertake a traffic management scheme for Brennanstown Road to address a number of issues, including traffic congestion and road safety. In conclusion, notwithstanding the elements of the road network proposed to be upgraded as part of the subject development, the information presented indicates that due to concerns regarding the operational capacity of junction 1, the immediate road network would not be able of catering for the proposed development, which would have a significant negative impact for road traffic. Mitigation would be necessary to address this, whether via reduced traffic flows to the junction or traffic management measures or works at the junction 1. The precise method and extent of mitigation in this regard would not be possible to be set out as a condition of the permission.

14.12.6. Material assets addressing utilities are dealt with in chapter 12 of the EIAR. In terms of building services and utilities, the applicant provides an overview of the proposed environmental services, electrical supply network, gas and telecommunications. The majority of these services follow Brennanstown Road to the north of the site or the Luas line to the south. The development would result in increased demand for water supplies, wastewater services, electricity and telecommunications services. The development is intended to connect to gas supplies. Potential to impact on existing services is referenced by the applicant, including damage to underground services and power outages during construction. During the operational stage there would be potential for impacts to arise via the increased demand and pressure on services. Engagement with utility operators is outlined as a mitigation measure for the project, as well as measures to identify and protect existing services. Testing and maintenance of wastewater and surface water networks will take place as part of the operation of the project. Based on consultation with Uisce Éireann prior to lodging the application, there is sufficient service capacity to serve the proposed development via water supply and foul wastewater networks with additional benefits to the foul wastewater network via connection agreements to fund upgrade of an existing 120m-long foul water sewer. A report was submitted with the application addressing the existing wireless telecommunication services in the area and the potential impacts on same arising from the proposals. This concluded that the

development would not impact on microwave links and if issues arise, mitigation would be employed by engaging with the respective telecommunication company and organising the re-alignment of microwave links to a new hop site.

14.12.7. Material assets addressing waste are dealt with in chapter 13 of the EIAR. A project Resource and Waste Management Plan has been prepared for the initial demolition and construction phases of the project (see appendix 13.1 of the EIAR), including the methods to be employed in identifying, removing and reusing of excavated materials, the controls to deal with hazardous materials and the measures to manage and dispose of waste materials. An operational waste management plan has been prepared for the operation phase of the project (see appendix 13.2 of the EIAR) based on the anticipated level of service relative to the expected population equivalents. Details with respect to waste and recycling are provided including collection areas, collection methods and means of addressing waste not suitable for collection. Autotrack drawings identify safe means of access for refuse vehicles. Subject to conditions, significant impacts for waste management are not anticipated from the construction and operational phases of the development, and the project would have long-term, imperceptible and neutral impacts for waste management.

14.12.8. I have considered all of the written submissions made in relation to material assets, including those relating to traffic and transport, utilities and waste. I am satisfied that the identified impacts for waste and utilities, would be avoided, managed and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. Accordingly, I am satisfied that the proposed development would not have any unacceptable direct, indirect, secondary or cumulative impacts in terms of utilities and waste. Notwithstanding this, I am satisfied that due to the identified operational capacity implications for the Brennanstown Road approach to junction 1, west of the site, coupled with concerns regarding figures used and the Development Plan specific local objective 73, intending to address traffic congestion and road safety along Brennanstown Road, I am satisfied that the identified impacts for traffic and transport, would not be avoided, managed and mitigated by the measures that form part of the proposed scheme or through suitable conditions. Accordingly, I am satisfied that the proposed development would have an unacceptable direct impact on traffic and transport.

### 14.13. Archaeological, Architectural and Cultural Heritage

- 14.13.1. Chapters 14 and 15 of the EIAR describe and assess the impact of the development on archaeological heritage and architectural heritage. In terms of archaeological potential, the applicant undertook a desk-based study of the site and an area 500m from the site. This was followed up with a geophysical survey (appendix 14.1) and archaeological testing (appendix 14.2) with 21 test trenches. Details of the placenames relating to the area and a chronological description of the historical background to the surrounding area is provided, including cartographic analysis. The applicant states that there are no recorded monuments or places (RMPs) on site, and that the closest RMP relates to a mill / enclosure (ref. DU026-080001-2) located approximately 100m to the south of the site and a portal tomb (ref. DU026-007) 200m to the east of the site. The assessment acknowledges the reference to a castle previously occupying the area of the existing tower on site.
- 14.13.2. Figure 14.9 of the EIAR provides an overview of the archaeological potential for the application lands. Clear archaeological patterns within the proposed development area were not in evidence following the geophysical survey and no responses of archaeological interest were recorded. No features of archaeological potential were identified during the archaeological testing, including the former castle site. Observers raise various concerns regarding the potential for the development to impact on the line of sight between the portal tomb and other sites on uplands to the west. The applicant notes that the portal tomb is not visible from the application site and in section 13.5 above, I have noted the impact of existing mature trees with respect to this line of sight. I am satisfied the proposed development, in particular arising from the separation distances achieved, would not significantly impact on the setting, character or heritage value of this tomb.
- 14.13.3. The various features of architectural heritage value are referenced above, including the tower on site (RPS ref.1729), the adjoining cemetery (RPS ref. 2066) and the water hydrant on Brennanstown Road. There are a number of other protected structures in the area along Brennanstown Road, including Glendruoid House (RPS ref. 1730) and Brennanstown House (RPS ref. 1729). Townland boundaries do not cut through the site and it does not have status as an ACA. As noted above, I am satisfied that the works proposed to the Protected Structure on site, would reflect the

original character of the tower, and form a positive conservation element of the project, while the removal of the 20th-century house and the provision of low-level landscaped buffer surrounding the tower would improve the character and setting of the tower. With respect to the adjacent cemetery, while some overlooking would be likely to arise, I do not consider this detrimental to the character and setting of the cemetery with existing and proposed trees capable of providing a substantial screen between much of the development and this neighbouring feature.

14.13.4. The applicant asserts that monitoring by a suitably qualified archaeologist should take place for all topsoil stripping, slap removal and foundation excavation. Mitigation via preservation or recording of any features of archaeological potential is set out with the approval of the National Monuments Service. The Minister for Housing, Local Government and Heritage recommend a condition should be attached to the permission with respect to archaeological monitoring, recording, preservation and reporting. The Planning Authority refer to the need for the preservation, recording and protection of archaeological features or features that may exist on the site.

14.13.5. With the implementation of the mitigation measures, there would be no residual impacts from the development on archaeological heritage and any archaeological features or deposits found should be preserved in situ, with the residual impact of same having long-term, imperceptible and positive impacts. Monitoring to be conducted by an Archaeologist and Conservation Architect throughout the construction phase of the works would ensure adequate protections are put in place to mitigate against any direct impacts on architectural heritage.

14.13.6. I am satisfied that given the evidence presented, the proposals to develop the site would not give rise to a situation that would preclude the granting of permission for substantive archaeological or heritage reasons. Notwithstanding this, given the potential for known and unknown archaeological features to survive on site, a condition with respect to archaeological assessment and monitoring, similar to that stated in the Planning Authority decision, would appear reasonable and necessary to attach in the event of a grant of permission for the proposed development. Furthermore, a condition should also be attached to require the works to the tower to be overseen by a conservation architect.



14.13.7. I have considered all of the written submissions made in relation to archaeology, as well as architectural and cultural heritage. I am satisfied that the identified impacts on archaeology, architectural heritage and cultural heritage would be avoided, managed and mitigated by the measures that form part of the proposed scheme, by the proposed mitigation measures and through suitable conditions. I am satisfied that the proposed development would not have any significant direct, indirect, secondary or cumulative impacts on archaeology, architectural or cultural heritage.

#### **14.14. Landscape**

14.14.1. For proposals exceeding the height of surrounding buildings by two storeys or more, the Development Plan requires a visual impact assessment to be undertaken. Sections 8.4.5 of the Development Plan address landscapes, views and prospects, as well as other visual amenity classifications. The Dun Laoghaire-Rathdown Landscape Assessment Study and Landscape / Seascape Character Areas accompanies the Development Plan (appendix 8), although the application site area is marginally outside the study and character areas, including the adjoining Cherrywood / Rathmichael area. The Development Plan does not identify any protected views or landscapes of value affecting the site, although reference is made to the sylvan character of Brennanstown Road, as well as the Protected Structure on site and on the neighbouring site. The site is within the built envelope of the city and it is not included within a landscape character area of high amenity.

14.14.2. The Planning Authority acknowledge that protected views or prospects would not be impacted by the proposals. Observers raise various concerns regarding the visual impact of the proposals, in particular their impact on neighbouring houses, the character of the area and various cultural heritage features. It is also asserted by observers that the images and drawings provided with the application misrepresent the appearance of the development and, as such, they request that accurate, independent photomontages from various alternative locations, including a birds-eye aerial image, should be provided for the project. The Elected Members from the Planning Authority also assert that the photomontages submitted are disingenuous. To attempt to justify their case, neighbouring observers have altered a CGI prepared by the applicant for the development viewing the scheme alongside The Cottage property on Brennanstown Road.

14.14.3. A landscape and visual assessment forms chapter 10 of the EIAR submitted and a booklet of photomontages (appendix 10.1 to the EIAR), as well as contextual elevation and section drawings to aid in visualising the development, are provided as part of the application. A total of 20 short, medium to long-range viewpoints are assessed within the applicant's EIAR. The Architectural Design Statement also includes eight CGIs providing visual representations of the development in summer time settings.

14.14.4. The following table 4 provides a summary assessment of the likely visual change from the applicant's 20 selected viewpoints arising from the completed proposed development.

**Table 4.** Viewpoint Changes

No.	Location	Description of Change
1	Brennanstown Road – 200m east	Visibility of the subject development would be restricted by existing, roadside boundary walls, housing, the rising ground and mature trees. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
2	Brennanstown Road – 60m east	Mature trees along the roadside boundary would be removed and part of the front sections to the upper-floor levels to blocks A/B and C/D would be visible, with the remainder of the development screened by trees, housing, boundary walls and the change in topography. The level of visual change is only slight from this short-range view, due to the screening available.
3	Brennanstown Road – 10m east	With the mature trees removed and new boundary installed, substantive elements of blocks A/B and C/D would be visible from this approach. I consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment.
4	Brennanstown Road – 10m north	With the wall and mature trees removed and new recessed gate and boundary installed, blocks A/B, C/D, E, G and Barrington Tower would be visible from this approach. I

		consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment with views provided from the public realm to the Protected Structure.
<b>5</b>	Brennanstown Road – 10m northeast	With the mature trees removed and new boundary installed, substantive elements of blocks A/B and C/D would be visible from this approach. I consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment.
<b>6</b>	Brennanstown Road – 320m west	The development would be screened from view from this location due to the mature trees, roadside boundaries, housing and ground level changes. The level of visual change is negligible from this long-range view arising from this screening and separation distance.
<b>7</b>	Brennanstown Vale – 310m west	The development would be screened from view from this location due to the mature trees, garden features, housing and ground level changes. The level of visual change is negligible from this long-range view arising from this screening and separation distance.
<b>8</b>	Brennanstown Vale – 140m west	The development would be screened from view from this location due to the mature trees, garden features, boundary walls, housing and ground level changes. The level of visual change is negligible from this medium-range view arising from this screening.
<b>9</b>	Brennanstown Vale – 210m west	The development would be screened from view from this location due to the mature street trees, garden features, boundary walls and ground level changes. The level of visual change is negligible from this medium-range view arising from this screening.
<b>10</b>	Brennanstown Vale – 70m west	The development would be screened from view from this location due to the mature trees, garden features, boundary walls and ground level changes. The level of visual change is negligible from this short-range view arising from this screening.

<b>11.</b>	Carrickmines Luas car park – 350m southwest	Upper levels to blocks on the lower southern end of the site would be partially visible, with the remainder of the development screened from view from this location due to the mature trees along the Luas line corridor. The level of visual change is slight from this long-range view arising from this screening.
<b>12.</b>	Brennanstown Luas stop – 100m southeast	Glimpses of the buildings would be partially visible from within the mature trees to Glendruoid woodland, with the development largely completely screened from view by the woodland. The level of visual change is slight from this medium-range view arising from this screening.
<b>13.</b>	Laughanstown Luas stop – 570m southeast	Upper levels to blocks on the lower southeast end of the site would be partially visible, with the remainder of the development screened from view from this location due to the mature trees along the Luas line corridor and street furniture. The level of visual change is slight from this long-range view arising from this screening.
<b>14.</b>	Castle Street – 370m southeast	Upper levels to blocks F and H on the lower southeast end of the site would be visible, with the remainder of the development screened from view from this location due to the intervening mature trees. The level of visual change is slight from this long-range view arising from this screening.
<b>15.</b>	Tully Park – 950m southeast	The development would be screened from view from this location, due to change in ground levels. The level of visual change is negligible from this long-range view arising from this screening and separation distance.
<b>16.</b>	Lehaunstown Lane (M50 flyover) – 1.25km south	The development would be screened from view by mature trees from this location. The level of visual change is negligible from this long-range view arising from this screening and separation distance.
<b>17.</b>	Lehaunstown Lane (M50 flyover) – 1.6km south	The development would be screened from view by mature trees from this location. The level of visual change is negligible from this long-range view arising from this screening and separation distance.
<b>18.</b>	Golf Lane – 670m southwest	With the exception of the roofscape to the taller blocks, the proposed development would be screened from view by

		mature trees from this location. The level of visual change is slight from this long-range view arising from this screening and separation distance.
<b>19.</b>	Glenamuck Road (M50 flyover) – 900m west	Upper levels to the taller blocks on the lower southern end of the site would be visible, with the remainder of the development screened from view from this location due to the intervening mature trees. The level of visual change is slight from this long-range view arising from this screening.
<b>20.</b>	N11 / Orchard Square – 1km east	The development would be screened from view by mature trees from this location. The level of visual change is negligible from this long-range view arising from this screening and separation distance.

14.14.5. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontages are taken from locations, contexts, distances and angles, which provide a reasonably comprehensive representation of the likely visual impacts of the development from key reference points. As noted above, I have reservations in relation to the absence of photomontages accounting for views along the shared-surface route and the eastern elevations to proposed blocks E and F. The photomontages submitted provide visual representations, which I am satisfied would be likely to provide a reasonably accurate portrayal of the completed development in summer settings with the proposed landscaping in a mature and well-maintained condition.

14.14.6. In the immediate area the development would be most visible from the approaches along Brennanstown Road, with only intermittent views of the higher building elements from local vantage points in the surrounding street network and Luas line approaches outside the immediate area. The development would be viewed as a substantial insertion in this urban setting and a substantive new feature where visible from neighbouring properties. The proposed development represents a substantial increase in height and scale when considering the existing low-rise housing characterising the immediate area. There are other buildings of comparable heights to the five-storey proposed blocks A/B and C/D fronting onto Brennanstown Road in the Brennanstown Woods development, although heights up to eight storeys have only been permitted on the Doyle nurseries site (ABP ref. 305859-19), while five storeys are proposed in the Priorsland development area (ABP ref. 313322-22) to

the south and seven storeys on the Glenamuck Road (ABP ref. 313341-22) to the west.

14.14.7. Environmental conditions would also influence the appearance of the development from the selected viewpoints with screening by mature trees particularly along the Brennanstown Road, immediate streets and Luas line approaching the site varying throughout the seasons. I am satisfied that the visual change would be largely imperceptible to slight from the wider areas, but moderate visual impacts on the Brennanstown Road approach fronting the site would arise. Visual impacts with respect to cultural heritage features on site and off site have been addressed above.

14.14.8. Based on the setting the fact that construction works would normally be unsightly, as well as scope to screen the development works along Brennanstown Road, the change arising from the construction phase would have moderate negative impacts on the landscape. I am satisfied that such impacts would have a temporary negative effect with the removal of trees, hedgerows, groundworks and construction activity. The visual impacts at the construction phase would be softened by the maintaining of hedgerows and trees, where feasible, although this primarily relates to hedgerows and trees on adjoining properties. Moderate effects at worst on the landscape character are anticipated from the operational phase, given the continued use of the lands for residential use. Mitigation measures to address the visual impacts at operational stage would comprise those embedded elements of the design that respond to its immediate setting, including landscaping measures and the provision of open space areas.

14.14.9. The impact on the outlook from neighbouring properties is considered separately in section 13.7 above. Where potentially discernible from long range views, the proposed development would read as part of the wider emerging urban landscape, including the emerging Cherrywood Planning Scheme SDZ, and screening offered by existing buildings, boundaries, structures, trees and ground would largely restrict the visual impact of the development from other areas beyond Brennanstown Road. The appearance of the development would not be substantively out of character with the emerging character of the area, including buildings of similar scale and height, although as highlighted above, concerns do arise with respect to the positioning and scale of blocks E, F and H onto the shared-surface route and the extent of trees to

be removed from the site. Notwithstanding this, these impacts would primarily be confined to the development itself and would not impact on the visual amenities of areas external to the site. The proposed development can be absorbed at a local level and the visual change arising from the operation of the proposed development would not have significant negative implications for the appearance of the area.

14.14.10. I have considered all the written submissions made in relation to landscape and visual impacts. From an environmental impact perspective, with the attachment of conditions, I am satisfied that significant visual impacts would be avoided, and I am satisfied that the proposed development would have acceptable direct, indirect, secondary and cumulative effects on the landscape and acceptable direct, indirect, secondary and cumulative visual impacts.

#### **14.15. The interaction between the above factors**

14.15.1. Chapter 16 of the EIAR includes table 16.1 addressing the interactions between each of the environmental disciplines assessed in the EIAR. The various potential interactions between the assessed disciplines are considered in the EIAR. Where necessary, mitigation was employed to ensure that no cumulative effects would arise as a result of the interaction of the various elements of the development with one another, with the applicant referring to the measures in each chapter of the EIAR and the supporting documents as primarily addressing any potential significant residual impacts of the project. The potential for land, soils and geology impacts to interact with five of the other ten disciplines is considered to arise, including the population and human health discipline. For example, an interaction between land, soil and geology with biodiversity would arise during the construction phase from the excavation of materials and the need to control and contain these materials, in particular from entering the adjacent watercourse. Other interactions are addressed, including those arising from noise and vibration during the construction phase impacting on population and human health, with various measures to be employed, including those outlined in the preliminary CEMP.

14.15.2. I have considered the interrelationships between the factors and whether these may as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures to be put in place, I am satisfied that no residual risk of significant negative interaction between any of the

disciplines would arise and no further mitigation measures to those already provided for in the EIAR, or as conditions of the permission, would arise. I am satisfied that in general the various interactions were accurately described in the EIAR.

#### **14.16. Cumulative Impacts**

- 14.16.1. The proposed development could potentially occur in tandem with the development of other sites that are zoned for development in the area, including the substantive permitted development at the Doyle nurseries site (ABP ref. 305859-19) and proposed development on Glenamuck Road (ABP ref. 313341-22) and within the Cherrywood Planning Scheme SDZ (ABP ref. 313322-22). It is noted that the Planning Authority support a traffic management plan for Brennanstown Road, while a green network has also been proposed. The proposed development would also be likely to act as the catalyst for opening of the Brennanstown Luas stop with access to same from Brennanstown Road area, while also necessitating upgrade of a 120-long stretch of foul wastewater sewer running parallel with the Luas line. The access to the Luas stop could also enable a crossing of the Luas line to lands within Cherrywood SDZ. The project would be dependent on the phased provision of infrastructure, including road infrastructure, footpaths, utilities and drainage services, the majority of which are proposed as part of this development or subject to suggested conditions in the event of a grant of planning permission for the proposed development.
- 14.16.2. Observers assert that the EIAR fails to provide a comprehensive cumulative impact assessment of the proposed development, including other strategic housing developments. Throughout the EIAR the applicant has referred to the various cumulative impacts that may arise for each discipline, as a result of other existing, proposed and permitted developments in the environs of the site. Such development would be largely in accordance with the nature and scale of development envisaged for the area within the Development Plan, which has been subject to Strategic Environment Assessment.
- 14.16.3. The nature, scale, form and character of the project would generally be similar to that envisaged for the site within the adopted statutory plan for this area. It is therefore concluded that the cumulative effects from the planned and permitted developments in the area and the subject project would not be likely to give rise to significant



effects on the environment other than those that have been described in the EIAR and considered in this EIA.

#### **14.17. Reasoned Conclusion on the Significant Effects**

14.17.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the applicant, and to the submissions from the Planning Authority, prescribed bodies and observers in the course of the application, it is considered that the main potential direct, indirect, secondary and cumulative effects of the proposed development on the environment are as follows:

- significant direct positive impacts for population and material assets, due to the substantive increase in the housing stock during the operational phase;
- significant direct negative effects arising for water during the construction phase, which would be mitigated by a suite of measures to prevent contamination of water, including buffers and safe working methods, resulting in no residual impacts on water;
- direct negative effects arising for land and soils during the construction phase, which would be mitigated by reuse of excavated materials on site and removal of materials to appropriate off-site facilities, as well as a suite of measures to prevent contamination of soils, resulting in no residual impacts on land and soil;
- direct negative effects arising for air and human health during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, including dust management and monitoring, resulting in no residual impacts on air quality and human health;
- direct negative impacts arising from noise and vibration during the construction phase, which would be mitigated by a suite of appropriate management measures, resulting in no residual impacts on human health;
- direct negative effects arising for traffic and transport during the construction phase, which would be mitigated by the preparation of a construction management plan via detailed consultation with the Planning Authority, resulting in no residual impacts on traffic and transport;

- significant direct negative effects arising for traffic and transport during the operation phase, which would need to be mitigated by addressing capacity issues arising for vehicular traffic to the Brennanstown Road / Glenamuck Road / Claremont Road / Brighton Road junction and without mitigation significant direct negative residual impacts on traffic and transport would arise;
- direct negative effects for architectural heritage, which would be addressed during the construction phase by restoring and repairing the Protected Structure on site, as well as removing the 20th-century house and providing a landscaped buffer to the Protected Structure, resulting in no residual impacts on architectural heritage;
- direct negative effects for landscape, which would be addressed during the construction and operation phases by existing and proposed screening, as well as the embedded design elements of the scheme, resulting in no residual impacts on the landscape.

14.17.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. With the exception of the data informing the traffic assessments, the assessments provided in the other individual EIAR chapters are satisfactory, and I am satisfied that the information provided enables the likely significant environmental effects arising from the project to be identified, described and assessed. Arising from my assessment of the project, including mitigation measures set out in the EIAR and the application, and the suggested conditions in the event of a grant of planning permission for the project, with the exception of the traffic and transport impacts highlighted, the other negative environmental impacts identified above would not be significant. Concerns with respect to traffic impacts at the Brennanstown Road / Glenamuck Road / Claremont Road / Brighton Road junction would arise, resulting in significant direct negative effects of the project for traffic and transport. I am satisfied that the applicant would be required to address this impact to justify granting planning permission for the proposed development.

## **15.0 Appropriate Assessment**

### **15.1. Introduction**

- 15.1.1. The requirements of Article 6(3) of the Habitats Directive, related to screening the need for appropriate assessment (AA) of a project under section 177U of the Act of 2000, are considered in the following section.

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

- 15.2.1. The Habitats Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an AA of its implications for the site, in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of a European site before consent can be given. European sites include SACs and SPAs forming part of the Natura 2000 network.

### **15.3. Stage 1 AA Screening**

- 15.3.1. The applicant has submitted a document titled 'Appropriate Assessment Screening & Natura Impact Statement' dating from April 2022, which was prepared by professional ecologists from Altemar Marine & Environmental Consultancy. This document provides a description of the site, the receiving environment and the proposed development, as well as identifying European sites within the possible zone of influence of the development.

#### Site Location

- 15.3.2. A description of the site is provided in section 2 above and throughout the assessments above. The site accommodates two vacant houses and a tower structure, on extensive grounds featuring mature trees, hedgerows and grassland. The habitats recorded on site, as listed in the application Ecological Impact Assessment and the Biodiversity chapter of the EIAR, comprise dry meadows and

grassy verges (GS2), scrub (WS1), buildings and artificial surfaces (BL3), recolonising bare ground (ED3), spoil and bare ground (ED2), hedgerows (WL1) and treelines (WL2). No Annex I habitats were recorded within the site during the habitat surveys and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded as using the site. Invasive species were not recorded on the site during surveys. The applicant's Hydrogeological Assessment sets out the surface water drainage regime in the area, highlighting that Carrickmines River adjacent to the south of the site is the closest substantial natural waterbody to the site, flowing east towards Dublin Bay within the Dargle River subcatchment.

#### Proposed Development

- 15.3.3. A detailed description of the proposed development is provided in section 3 above and expanded upon below where necessary. Details of the construction phase of the development are provided throughout the subject application documentation, including the Preliminary CEMP, the Site Investigation Reports and the Resource and Waste Management Plan. According to the applicant, foul wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Shanganagh WWTP. Following various standard practice construction site environmental management measures, as well as SUDS measures, surface waters would be discharged from an outfall into the Carrickmines River. Ultimately the resultant treated wastewaters and surface waters from the proposed development would discharge to Killiney Bay.
- 15.3.4. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:
- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
  - Operation Phase – disturbance, surface water runoff and emissions to water.

#### Submissions and Observations

- 15.3.5. The submissions and observations from observers, the Planning Authority and prescribed bodies are summarised in sections 9, 10 and 11 of this report. I have had regard to other relevant documentation included with the application. The Planning

Authority acknowledge the approach taken by the applicant with respect to their consideration of the likely significant effects on European sites and the mitigation measures for the construction phase of the project. The Planning Authority refer to the Board as being the competent authority for AA in this case. The Minister for Housing, Local Government and Heritage assert that if mitigation measures with respect to the avoidance of mobilisation of pollutants from the site are implemented, the proposed development will not result in any adverse effects on European sites and a condition requiring a final CEMP should be submitted to the Planning Authority. The observers refer to matters that they consider to result in shortcomings in the AA Screening Report and an inability to reach conclusions based on thorough assessment, including the construction phase impacts, as well as scientific expertise, analysis and lacunae.

### European Sites

15.3.6. The nearest European sites to the application site comprise the following:

**Table 5.** European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction
000210	South Dublin Bay SAC <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Embryonic shifting dunes [2110]</li> </ul>	4.5km	northeast
004024	South Dublin Bay and River Tolka Estuary SPA <ul style="list-style-type: none"> <li>• Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]</li> <li>• Oystercatcher <i>Haematopus ostralegus</i> [A130]</li> <li>• Ringed plover <i>Charadrius hiaticula</i> [A137]</li> <li>• Grey plover <i>Pluvialis squatarola</i> [A141]</li> <li>• Knot <i>Calidris canutus</i> [A143]</li> <li>• Sanderling <i>Calidris alba</i> [A149]</li> <li>• Dunlin <i>Calidris alpina</i> [A149]</li> <li>• Bar-tailed godwit <i>Limosa lapponica</i> [A157]</li> <li>• Redshank <i>Tringa totanus</i> [A162]</li> </ul>	4.6km	northeast

	<ul style="list-style-type: none"> <li>• Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]</li> <li>• Roseate tern [A193]</li> <li>• Arctic tern [A194]</li> <li>• Wetland and waterbirds [A999]</li> </ul>		
003000	Rockabill to Dalkey Islands SAC <ul style="list-style-type: none"> <li>• Harbour porpoise [1351]</li> <li>• Reefs [1170]</li> </ul>	4.7km	east
000713	Ballyman Glen SAC <ul style="list-style-type: none"> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Alkaline fens [7230]</li> </ul>	5.0km	south
004172	Dalkey Islands SPA <ul style="list-style-type: none"> <li>• A192 Roseate Tern (<i>Sterna dougallii</i>)</li> <li>• A194 Arctic Tern (<i>Sterna paradisaea</i>)</li> <li>• A193 Common Tern (<i>Sterna hirundo</i>)</li> </ul>	5.2km	east
000725	Knocksink Wood SAC <ul style="list-style-type: none"> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>• Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</li> </ul>	5.3km	south
004040	Wicklow Mountains SPA <ul style="list-style-type: none"> <li>• Merlin (Falco columbarius) [A098]</li> <li>• Peregrine (Falco peregrinus) [A103]</li> </ul>	7.2km	south
002122	Wicklow Mountains SAC <ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</li> <li>• Natural dystrophic lakes and ponds [3160]</li> <li>• Northern Atlantic wet heaths with Erica tetralix [4010]</li> <li>• European dry heaths [4030]</li> <li>• Alpine and Boreal heaths [4060]</li> <li>• Calaminarian grasslands of the Violetalia calaminariae [6130]</li> </ul>	7.2km	south

	<ul style="list-style-type: none"> <li>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> <li>Blanket bogs (* if active bog) [7130]</li> <li>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</li> <li>Calcareous rocky slopes with chasmophytic vegetation [8210]</li> <li>Siliceous rocky slopes with chasmophytic vegetation [8220]</li> <li>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li><i>Lutra lutra</i> (Otter) [1355]</li> </ul>		
000714	Bray Head SAC <ul style="list-style-type: none"> <li>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>European Dry Heaths [4030]</li> </ul>	7.9km	southeast
000206	North Dublin Bay SAC <ul style="list-style-type: none"> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>Annual vegetation of drift lines [1210]</li> <li><i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> <li>Atlantic salt meadows [1330]</li> <li>Mediterranean salt meadows [1410]</li> <li>Embryonic shifting dunes [2110]</li> <li>Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>Humid dune slacks [2190]</li> <li>Petalwort <i>Petalophyllum ralfsii</i> [1395]</li> </ul>	10km	northeast
004006	North Bull Island SPA <ul style="list-style-type: none"> <li>Light-bellied brent goose [A046]</li> <li>Shelduck <i>Tadorna</i> [A048]</li> <li>Teal <i>Anas crecca</i> [A054]</li> <li>Pintail <i>Anas acuta</i> [A054]</li> <li>Shoveler <i>Anas clypeata</i> [A056]</li> </ul>	10km	northeast

	<ul style="list-style-type: none"> <li>• Oystercatcher [A130]</li> <li>• Golden plover <i>Pluvialis apricaria</i> [A140]</li> <li>• Grey plover [A141]</li> <li>• Knot [A143]</li> <li>• Sanderling [A144]</li> <li>• Dunlin [A149]</li> <li>• Black-tailed godwit <i>Limosa</i> [A156]</li> <li>• Bar-tailed godwit [A157]</li> <li>• Curlew <i>Numenius arquata</i> [A160]</li> <li>• Redshank [A162]</li> <li>• Turnstone <i>Arenaria totanus</i> [A169]</li> <li>• Black-headed gull [A179]</li> <li>• Wetland and waterbirds [A999]</li> </ul>		
000719	Glen of the Downs SAC <ul style="list-style-type: none"> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> </ul>	12.8km	southeast
001209	Glenasmole Valley SAC <ul style="list-style-type: none"> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</li> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> </ul>	13.1km	west

15.3.7. In determining the zone of influence for the proposed development I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site. Table 3 of the application screening report identifies the potential links from European sites to the application site. Distances and directions from the site to European sites are listed in table 5 above. I do not consider that any other European Sites other than those identified in table 6 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the results of ecological surveys for the site, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.



**Table 6.** Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
Rockabill to Dalkey Island SAC 003000	QIs – 1170 Reefs 1351 Harbour porpoise  The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level	Weak hydrological connections exist through:  Direct outfall from the site into Carrickmines river resulting in surface water ultimately discharging to Killiney Bay;  Wastewater from the site passes and would be treated in Shanganagh WWTP, which also discharges to Killiney Bay.	Yes

#### 15.4. Potential Effects

- 15.4.1. Habitat loss and fragmentation would not arise given the location and nature of the site. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area.
- 15.4.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- surface water drainage from the proposed development site during construction and operational phases;
  - increased wastewater being sent to Shanganagh WWTP during the operational phase of the proposed development.

#### Construction Phase

- 15.4.3. Contrary to the assertion of the observers, the AA Screening Report does consider the construction phase of the proposed development. There is a potential direct

connection from the subject site to waters in Killiney bay given the proximity of the site to Carrickmines river, with the steep topography, requiring measures to address potential for silt and sediment to enter the river during construction works, including via the associated works to install the proposed outfall, as well as the works to replace the 120m-long stretch of foul wastewater sewer. The applicant has set out specific measures to mitigate against this risk as part of table 10 to their NIS, including various guidelines to follow, otherwise the proposed works would have the potential to undermine water quality flowing into the Carrickmines river ultimately discharging via Cabinteely stream (Loughlinstown river) and Shanganagh river to Killiney Bay. In the absence of specific project construction management and pollution control measures, the potential impact of the project on downstream European Sites comprising Rockabill to Dalkey Island SAC, would be uncertain. Other than the immediate coastal waters that the Shanganagh river discharges into, the potential for likely significant effects on the qualifying interests of other European sites in the wider coastal catchment can be excluded given the nature and scale of the development and the distance and volume of water separating the Shanganagh river discharge area from European sites in the wider coastal area (dilution factor).

#### Operational Phase

- 15.4.4. During the operational stage surface water from the site would be discharged at greenfield rates to the Carrickmines river after passing through fuel interceptors and various other SUDS. In the event that the pollution control and surface water treatment measures were not implemented or failed, for example due to inundation by flooding, I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Rockabill to Dalkey Island SAC can be excluded given the indirect and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the subject site from Rockabill to Dalkey Island SAC (dilution factor).
- 15.4.5. I note that the applicant refers to mitigation measures to ensure that no silt or pollution enters watercourses or is allowed to travel downstream of the proposed works from the site clearance works during the construction or operation phases of the proposed project. The mitigation measures stated solely refer to the construction phase of the project.

- 15.4.6. It is intended that wastewater would ultimately be treated at Shanganagh WWTP and the proposed development would result in a loading equivalent to approximately 1,500 residents. The applicant asserts that there would be adequate capacity to facilitate the development, including in the Shanganagh WWTP. Having regard to the scale of the development proposed, it is considered that it would result in an insignificant increase in loadings to Shanganagh WWTP, which would in any event be subject to Uisce Éireann consent that would only be given where compliance with EPA licensing in respect of the operation of the plant was not breached.
- 15.4.7. On the basis of the foregoing, I conclude that the operation of the proposed development would not impact the overall water quality status of Killiney Bay and that there is no possibility of the operational of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European Sites in or associated with Killiney Bay via surface water runoff or emissions to water.

#### In-combination Impacts

- 15.4.8. The applicant's AA Screening refers to the potential for projects to act in combination with the development, including the Doyle nurseries development (ABP ref. 305859-20) and developments within Cherrywood SDZ. The applicant asserts that these projects in combination with the subject proposed development would not give rise to significant effects to European Sites within the zone of influence.
- 15.4.9. This project is taking place within the context of increases in population and housing in the Dublin area. The expansion of Dublin is catered for through land use planning by the statutory plans for the four Dublin Planning Authorities, including the Dun Laoghaire-Rathdown County Development Plan 2022-2028. This Development Plan has been subject to AA by the Planning Authority who have concluded that its implementation would not result in adverse effects on the integrity of any European Sites.
- 15.4.10. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects that can act in combination with the development that could give rise to significant effects to European Sites within the zone of influence.

### AA Screening Conclusion

- 15.4.11. The proposed development was considered in light of the requirements of Section 177U of the Act of 2000. Having undertaken a stage 1 AA screening for the project, it has been concluded that the construction stage of the project individually could have a significant effect on European Site No. 003000 (Rockabill to Dalkey Island SAC), in view of the site's Conservation Objectives, and an Appropriate Assessment is therefore required. The applicant has submitted a NIS addressing the potential for significant effects on this site.
- 15.4.12. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European sites, given the absence of a pathway between other European sites and the application site, the separation distances to European sites, including across open exposed marine waters. In reaching this conclusion, with the exception of European Site No. 003000 (Rockabill to Dalkey Island SAC) I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on European Sites.

### Stage 2 - Appropriate Assessment

- 15.4.13. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interests of European Site No. 003000 (Rockabill to Dalkey Island SAC) using the best scientific knowledge in the field. All aspects of the project that could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are both considered and assessed.

### Test of Effects & Mitigation Measures

- 15.4.14. As the site of the proposed development is at a remove from Killiney Bay, no direct effects would occur. In terms of indirect effects the key element is the potential impact on water quality during the construction phase.
- 15.4.15. Construction management measures and instream work methods are outlined in the NIS and the Preliminary CEMP, including specific measures to prevent pollution to the water bodies, to safely store and handle fuel and chemicals, to remove and store soil, for monitoring and continued control. A project ecologist is to be appointed to

oversee the works with buffers, traps and bunds to help prevent water pollution. These measures and work parameters comprise typical and well-proven construction and site clearance methods that would be expected of a competent developer in these circumstances to ensure that there are no likely effects on the downstream waters from surface water runoff during construction works, thereby avoiding negative effects on Rockabill to Dalkey Island SAC. I am satisfied that with the implementation of the specific measures outlined in the NIS for the management of surface water, the excavation methods and the storage of fuels and chemicals, including compliance with the Guidelines on the Protection of Fisheries during Construction Works in and Adjacent to Waters (IFI, 2016), the proposed construction activity would not have likely significant effects on water quality downstream.

15.4.16. The evidence available provides certainty that the project would not result in pollution of water or significant adverse impacts for qualifying interests, and it can be concluded that the proposed development would not be likely to have significant adverse impacts on European Site No. 003000 (Rockabill to Dalkey Island SAC), in view of the site's conservation objectives.

15.4.17. I am therefore satisfied that the development would not cause changes to the key indicators of conservation value, hence there is no potential for any adverse impacts to occur on either the habitat or the species associated with European Site No. 003000 (Rockabill to Dalkey Island SAC).

#### In-combination Effects

15.4.18. Having regard to the foregoing, I consider that in-combination effects are not likely to arise for European Site No. 003000 (Rockabill to Dalkey Island SAC).

#### Appropriate Assessment – Conclusion

15.4.19. The possibility of significant effects on all European sites has been excluded on the basis of objective information provided with the application, including the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above. I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European Site No. 003000 (Rockabill to Dalkey Island SAC), or any other European site, in view of the sites' Conservation Objectives.

## **16.0 Conclusion and Recommendation**

- 16.1.1. The requirement to adhere to a 16m minimum separation distance would have arisen since lodgement of the application, and, as such, this is a new issue and the Board may normally wish to seek the views of the parties. However, I note the procedural restrictions for strategic housing development applications in this regard, as well as the other substantive reasons for refusal set out below.
- 16.1.2. I have considered the appropriateness of attaching conditions to address the various issues that have arisen in my assessments above, however, I am not satisfied that the extent of alterations to the proposed development that would be necessitated by these issues, including the potential omission of blocks, could be readily addressed in an immaterial manner, particularly given the lack of certainty with respect to matters raised, such as concerns relating to the development layout and traffic impacts.
- 16.1.3. Having regard to the above assessments, I recommend that section 9(4)(d) of the Act of 2016 be applied and that permission be refused to be granted for the proposed development, for the reasons and considerations set out in the draft Order below.
- 16.1.4. Finally, 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.

## **17.0 Recommended Order**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 12<sup>th</sup> day of April, 2022, by Cairn Homes Properties Ltd. care of McGill Planning Ltd., 22 Wicklow Street, Dublin 2.

### **Proposed Development:**

The development will consist of:

- demolition of an existing habitable dwelling 'Winterbrook', and the derelict, former dwelling attached to Barrington Tower protected structure. 'Barrington Tower' itself will be retained and restored. It is also proposed to demolish the existing boundary wall to the north of the site along Brennanstown Road;
- provide a 'Build to Rent' (BTR) apartment development consisting of 8 no. blocks ranging in height up to 10 storeys (including lower ground floor) providing a total of 534 no. apartments comprising 30 no. studio, 135 no. 1 - beds, 318 no. 2-beds & 51 no. 3-beds. All residential units provided with associated private balconies/terraces to the north/south/east/west elevations;
- resident support facilities and resident services and amenities (total floor area c.1,496 sq.m) including flexible spaces including entertainment rooms, meeting rooms, parcel rooms, media rooms, lounge and workspaces, gyms and studio, chef's kitchen and dining area;
- a creche (c.356.5 sq.m), and a retail unit (c.336.8 sq.m);
- car and cycle parking at basement (2 levels) and at ground level. This will provide 419 no. car parking spaces, 1,266 no. cycle parking spaces and 17 no. motorcycle spaces;
- all associated site development works, open spaces and landscaping, boundary treatments, plant areas, waste management areas, cycle parking areas, and services provision (including ESB substations);
- vehicular/pedestrian/cyclist access from Brennanstown Road will be provided along with improvement works to the Brennanstown Road including a new junction and pedestrian crossing facilities. Pedestrian/cyclist access through the site to the Brennanstown Luas Stop will also be provided.

at Barrington Tower and Winterbrook, Brennanstown Road, Dublin 18.

## **Decision**

**Refuse to grant permission for the above proposed development in accordance with the said plans and particulars, based on the reasons and considerations set out below.**

## **Matters Considered**

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

## **Reasons and Considerations**

1. Having regard to the separation distances between the proposed apartment blocks and their internal layout and elevational treatments facilitating direct overlooking between habitable rooms of apartments within 16 metres directly facing each other, the proposed development would represent a substandard form of development allowing for excessive direct overlooking between apartments and loss of privacy for future occupants of these apartments, which would fail to comply with Specific Planning Policy Requirement 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design, layout and height of the proposed development, including the creation of an access to a primary destination in the form of an operational Brennanstown Luas stop, the monolithic and overbearing height, scale and appearance of the apartment blocks in the southern area of the proposed development, excessively enclosing and dominating the shared-surface route along the eastern and southern boundary of the site, the proposed development would fail to implement the building height to street width provisions, as well as the safe segregation and management of traffic, required in the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019, and in not implementing these provisions the proposed development would fail to comply



with policy and objective 4.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024 supporting an integrated approach to quality urban design and placemaking.

Furthermore, in failing to preserve and protect any trees identified for preservation and protection centrally within the site, the proposed development would fail to comply with the provisions set out under section 12.8.11 of the Dun Laoghaire-Rathdown County 2022-2028, requiring new developments to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows identified for preservation and protection. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the increased traffic movements arising from the proposed development along Brennanstown Road, including substandard stretches of this road east of the application site, deficient in pedestrian paths and providing access from the application site to the nearest and most convenient local neighbourhood centre and other services at Cabinteely village, and in conjunction with the capacity constraints identified to arise at the Brennanstown Road / Glenamuck Road / Claremont Road / Brighton Road junction, the proposed development would endanger public safety along Brennanstown Road and would materially contravene specific local objective SLO 73 of the Dun Laoghaire-Rathdown County 2022-2028, which aims to improve safety along Brennanstown Road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Colm McLoughlin  
Senior Planning Inspector

18<sup>th</sup> April 2024