



An
Bord
Pleanála

Inspector's Report ABP 313344-22

Development	Demolition of houses and construct 48 apartments.
Location	The Gables and Whitethorn, Leopardstown Road, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0923
Applicant(s)	Number Two Red Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	1. Peter Callender 2. Mr. & Mrs. Michael Griffin 3. Leopardstown Heights Residents Association 4. Marco Ferrero 5. Karen & Conor Kelly 6. Peter & Deirdre Kirk

Observer(s)

None

Date of Site Inspection

01/12/22

Inspector

Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.4321 hectares, comprises of two dormer dwellings 'The Gables' and 'Whitethorn' on relatively large plots to the south-east of and accessed from Leopardstown Road (R113). The dwellings are set back between 35 and 37 metres from, and are up slope of, the roadside boundary. The roadside boundaries are delineated by c 2.5 metre high boundary walls with splayed entrances. The southern (rear boundaries) are delineated by mature evergreen trees and hedges. The curtilage of 'Whitethorn' contains a number of sheds and greenhouses.
- 1.2. A detached, single storey dwelling 'Hillhouse' is to the north-east of the overall site with its boundary to 'Whitethorn' delineated by a timber fence backed with planting. A single storey dwelling 'Cragleigh' bounds the overall site to the south-west. The dwelling is positioned approx. 6 metres from the shared site boundary which is delineated by a hedge. The dwelling has windows facing onto the site. The Mount Eagle housing estate backs onto the site to the south and is comprised of two storey, semi-detached dwellings.
- 1.3. The Leopardstown Road is relatively wide following realignment and has a cycle lane and footpath in front of the appeal site. The site is to the north-east of its junction with Kilgobbin Road and Hillcrest Road.

2.0 Proposed Development

The application was lodged with the planning authority on the 18/10/21 with further plans and details including revised notices submitted 15/03/22 following a request for further information (FI) dated 09/12/21.

As amended the proposal entails:

- Demolition of the two dwellings and associated outbuildings
- 4 storey building (4th floor recessed) comprising of 38 no. units (reduced from 48 no.) in the following mix:
 - 15 no. 1 bed
 - 21 no. 2 bed (4 person)

- 2 no. 3 bed

40 no. parking spaces including 2 no. visitor and 2 no. accessible spaces.

64 no. long stay and 20 no. short stay bicycle spaces.

1115 sq.m. communal open space.

The building has an overall height of 16.5 metres.

The application is accompanied by a suite of documents including:

- Planning Application Report
- Design Statement
- Arboricultural Assessment
- Daylight, Sunlight and Overshadowing Report
- Sustainability Report/Energy Statement
- Engineering Services Report
- Traffic and Transport Statement
- Site Specific Flood Risk Assessment
- Construction Management Plan
- Operational Waste Management Plan
- Resource and Waste Management Plan
- Noise Impact Statement
- Outdoor Lighting Report

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 33 conditions. Of note:

Condition 2: Revised plans/drawings to be submitted showing appropriate balcony screening/fencing at 3rd floor level, of not less than 1.5 metres in height and located no less than 1.2 metres set back from the building edge.

Condition 7: Pedestrian and cyclist priority to be maintained across the new entrance.

Condition 8: Existing boundary wall on the southwest side of the new vehicular entrance to be reduced to a maximum height of 1.1 metres for a minimum distance of 1.5-2.0 metres.

Condition 10: Requirements re. closure of existing vehicular entrances.

Condition 21: Noise levels to be regularly monitored and trigger limits established at which work will stop and action taken to reduce noise levels.

Condition 22: Programme of continuous monitoring.

Condition 23: Any noisy construction work to be carried out between 9-5 Monday to Friday only.

Condition 24: Landscape requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Planner's** report dated **09/12/21** notes:

- The demolition of the dwellings is acceptable in principle.
- The site would appear car dominant with extensive car parking occupying the front of the site.
- Good quality public and private open space with retention of tree cover not provided.
- Concerns about the separation distances from the site/rear boundaries and issues of bulk, massing, overlooking and overbearing.
- Site layout could be improved considerably.
- Given its location within the area of the section 49 LUAS supplementary contribution scheme it has the ability to meet one upward modifier for

increased height. In failing to meet more than one criteria and taking into account the prevailing and emerging scale of development within the area the 5 storey height is not justified. 3 storey with 4th recessed would be compliant with the building height strategy.

- Given the existing built form and pattern of development within the area, the location of the site towards the fringes of the city's built up area and having regard to Circular NRUP 02/2021 which indicates a more restrained approach to density at urban edges, it is considered that the current design, site layout and the proposed density of 111 units per hectare are indicative of overdevelopment.
- The proposal is overbearing with overlooking concerns particularly to the properties to the east, west and south.
- 3D views from the south not provided.
- The applicant should look at ways to improve daylight/sunlight to the living spaces within the apartments.
- 8 no. of the units are single aspect north-west facing which is considered to be a poor design outcome given the windows provided to the open living/dining kitchen area would be set in with a balcony overhanging directly above.
- Requirements of other technical reports summarised below noted.

A request for further information recommended.

The **2nd Planner's** report dated **07/04/22** notes:

- Due to the fall of the land and extent of site cut proposed, the reduction in height of the building, coupled with the recessed 4th storey would provide a more appropriate design response. These alterations are considered to address the overlooking and overbearing concerns.
- The rear return has marginally been set in off the rear (southern boundary) by an additional 1500mm, whilst the main apartment block has increased the setbacks off the north-east (side) boundary by 690mm. The apartment block has moved 1.388 metres closer to the south-west boundary shared with

Cragleigh. This minor realignment is not considered to be detrimental to the scheme given the reduction in height.

- The parking and open space layouts are acceptable.
- The reconfiguration of the single aspect north-west facing units is acceptable. The provision of a side facing door onto the balcony does not make them dual aspect.
- There are concerns regarding the balconies provided to 4th floor units and overlooking of adjoining property. To be addressed by way of condition.
- The issues regarding daylight and sunlight have been addressed.
- The insertion of obscured glass block windows to the rear return is acceptable.
- It is accepted that the building would not be highly visible from public property to the south.
- Recommendations of other reports (summarised below) noted.

A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Housing Department in a report dated **09/11/21** recommends a Part V condition should permission be granted. **2nd report** dated **28/03/22** following FI refers to what has been agreed originally.

1st report from **Municipal Services Department** dated **23/11/21** recommends FI including details on surface water disposal, attenuation, green roofs and flooding.

2nd report dated **25/03/22** following FI has no objection subject to conditions.

1st report from **Environmental Health Officer** dated **25/11/21** recommends FI on Demolition and Construction Environmental Management Plans. **2nd report** dated **28/03/22** following FI has no objection subject to conditions.

1st report from **Public Lighting** in a report dated **26/11/21** recommends FI. The **2nd report** dated **29/03/22** says the lighting design is acceptable.

1st report from **Parks and Landscape Services** dated **26/11/21** recommends further information including tree retention where possible. **2nd report** dated **28/03/22** details conditions to be attached should permission be granted.

1st report from **Transportation Planning** dated **07/12/21** recommends further information on relocation of proposed site access, location of the substation, visitor and car share parking, provision for electric vehicles, and cycle parking. The **2nd report** dated **01/04/22** following FI has no objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water in a letter dated **24/11/21** has no objection subject to conditions.

3.4. **Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those in the 3rd party appeals summarised in section 6 below. In addition, public transport capacity and traffic, adequacy of community facilities and prospective amenities raised as concerns.

4.0 **Planning History**

I am not aware of any previous planning applications on the site.

5.0 **Policy Context**

5.1. **Development Plan**

Since the lodgement of the application and the planning authority's decision the Dun Laoghaire Rathdown County Development Plan 2022 came into effect.

The site is within an area zoned A the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities.

In terms of residential development chapter 4 refers. Of note:

Policy Objective PHP18: Residential Density

It is a Policy Objective to:

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

The 'Sustainable Residential Development in Urban Areas' Guidelines and the accompanying 'Urban Design Manual' include recommendations regarding appropriate densities for various types of locations. Having regard to the Guidelines and consistent with RPO 3.3 and 4.3 in the RSES:

- Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density¹) will be encouraged.

Policy Objective PHP20: Protection of Existing Residential Amenity.

Ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

- On all developments with a unit per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment

should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.

- On all developments with height proposals greater than 4 storeys the applicant should provide a height compliance report indicating how the proposal conforms to the relevant Building Height Performance Based Criteria “At District/Neighbourhood/Street level” as set out in Table 5.1 in Appendix 5.
- On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious buffer must exist from the rear garden boundary lines of existing private dwellings.
- Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights.

Policy Objective PHP27: Housing Mix

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

Policy Objective PHP42: Building Design & Height

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

12.3.5.1 Dual Aspect in Apartments

Specific Planning Policy Requirement (SPPR) 4 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2020), provides guidance with respect to the minimum number of dual aspect apartments that may be provided in any single apartment schemes. In accordance with this guidance, DLR as a County is classified as a suburban or intermediate location and therefore:

- There shall generally be a minimum of 50% dual aspect apartments in a single scheme.

12.4.5.1 - The site is within Parking Zone 3

Within parking zone 3 maximum standards shall apply to uses other than residential where the parking standard shall apply.

Land Use	Zone 3 Remainder of County (non-rural)
1 bed	1*
2 bed	1*
3 bed	2*

*plus 1 in 10 visitor parking for apartments in zone 3

Appendix 5 – Building Height Strategy

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

Section 5 of the appendix sets out the performance-based criteria that the Planning Authority will use in assessing applications for increased height in the County. The performance based criteria take into account the protection of residential amenities, the protection of the County’s built and natural heritage and the promotion of compact growth in suitable locations throughout the County.

5.2. Natural Heritage Designations

None in the vicinity.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

3rd Party appeals have been received from:

1. Peter Callender
2. Mr. & Mrs. Michael Griffin
3. Leopardstown Heights Residents Association
4. Marco Ferrero
5. Karen & Conor Kelly
6. Peter & Deirdre Kirk

The grounds of appeal can be summarised as follows:

- The proposal constitutes overdevelopment of the site. It is out of scale, excessive in height and would be overbearing.
- It breaks the established building line and will result in a building that has no visual or material connection with other buildings on the road.
- It fails to integrate with the existing character of the area.
- The orientation of the apartments would adversely impact on the amenities and privacy of adjoining dwellings. The southern elevation of the development comprises of kitchen/living rooms that open to south facing private roof top terraces or winter gardens which will face onto the rear gardens of dwellings in Mount Eagle Rise. Hill House adjoining would also be overlooked.
- The provision of winter gardens makes the amenity spaces much more usable than balconies thus exacerbating rather than alleviating concerns regarding overlooking.
- A precondition survey of adjoining properties is required.
- It is unduly close to the site boundaries.

- Absence of 3D views from the south. There is no sense of the scale when viewed from adjoining dwellings. It will be visible above the roof lines of the dwellings in Mount Eagle Rise.
- Details of the building height relative to adjoining properties are inaccurate.
- The plans do not accurately reflect the extent of development to the rear of dwellings in the vicinity i.e. extensions, sheds. Therefore the separation distances given are inaccurate. The measurement of 31 metres used to substantiate appropriate distances is misleading.
- The degree of screening by the proposed new planting will be a fraction of that which would be provided by the existing trees which are to be removed. The existing trees should be retained.
- The boundary wall to the southern boundary needs to be increased in height to provide for adequate security.
- The sunlight analysis is incomplete.
- Noise and vibration arising during construction phase, which will require rock blasting and drilling, will have an adverse impact on residents. Noise over 90 decibels should be limited to times when children are at school.
- Exacerbation of surface water flood risk to adjoining properties.
- It will devalue adjoining property.

6.2. Applicant Response

No response received.

6.3. Planning Authority Response

It is considered that the grounds of appeal do not raise new issues which would justify a change of attitude to the proposed development.

6.4. Observations

None.

6.5. Further Responses

The 3rd Party appeals were circulated to the other 3rd Parties for comment. No responses received.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development and Acceptability of Density
- Residential Amenities
- Access and Parking
- Other Issues

7.1. Principle of Development and Acceptability of Density

- 7.1.1. Since the assessment and adjudication of the application by the planning authority the Dun Laoghaire Rathdown County Development Plan 2022 came into effect.
- 7.1.2. The site is within an area zoned A, the objective for same being to protect and/or improve residential amenity. Within such a zone residential is permitted in principle. In addition, policy objective PHP18 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, and development management criteria set out in Chapter 12. The fundamental requirement is to balance the protection of existing residential amenities and the established character of the surrounding area with the need to provide for high quality, sustainable residential development. I note that a number of infill developments have been permitted in the wider area on such zoned lands noting, in particular, the apartment scheme permitted with access from Kilgobbin Road to the south.
- 7.1.3. The proposal requires the demolition of two detached dormer dwellings. They are set back from the road and are indicative of the architectural design and layout of other dwellings along Leopardstown Road. Neither are protected structures. In the

context of the development proposal which will provide for a greater intensification of the lands and a more sustainable use of the infill site the demolition is justified and is in accordance with the proper planning and sustainable development of the area.

- 7.1.4. The housing stock in the area is largely comprised of family sized, 3 and 4 bed housing units and so the introduction of an alternative form of development (comprising mainly of one and two bedroom units) provides more choice for would-be residents and would be in accordance with policy objective PHP27 which encourages the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County.
- 7.1.5. As amended, the scheme now provides for 38 apartment units which gives a density of approx. 88 units per hectare. The site is c. 900 metres walking distance to Glencairn LUAS stop to the south-east and is within the area covered by the Section 49 Development Contribution Scheme for the LUAS Line B1. The development plan details locations where increased densities would be considered. In locations within 1km of such quality public transport densities at a minimum of 50 units per hectare are to be encouraged. No upper limit is stipulated.
- 7.1.6. I acknowledge that the quantum of development proposed is significantly greater than the established scale of development in the area. As required by policy objective PHP20 the onus is on the applicant to justify how the density, scale, size and proposed building form does not represent over development of the site and does not impact negatively on the amenity value of existing dwellings. Accordingly, the suitability of the proposed quantum requires further assessment on the basis of the various issues discussed throughout this report, including visual amenity, residential amenity, and traffic/transport impacts.

7.2. Residential Amenities

Existing Residential Amenities

- 7.2.1. As noted above due to the locational context of the site and its infill nature the site is surrounded by low density residential development. To the east and west are detached dwellings on relatively large plots with Mount Eagle housing estate to the

south comprising of semi-detached two storey units. The lands generally slope down from south to north towards Leopardstown Road.

- 7.2.2. Objections are raised regarding the height of the proposed development and the consequent impacts on residential and visual amenities. I note that the Building Height Strategy set out in Appendix 5 of the current development plan differs substantively from the previous development plan provisions on a number of points. Of note is the removal of the upward and downward modifiers in the context of consideration of taller buildings and their replacement with policy objectives reflecting the requirements of national planning policies, in particular the Building Height Guidelines 2018. Policy Objective PHP42 requires adherence to the recommendations and guidance within the Building Height Strategy for the county. The strategy, more specifically Policy Objective BHS 1, supports the consideration of increased heights and also consideration of taller buildings where appropriate, in suitable areas well served by public transport links, provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. In this regard, increased height is defined as buildings taller than the prevailing building height in the surrounding area with taller buildings defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area. The scheme, as amended by way of further information, provides for increased height. Whilst it is not more than 2 storeys taller than the houses in Mount Eagle it does exceed the parameters when assessed against the dwellings immediately adjoining to the east and west. On this basis the proposal needs to be evaluated against the criteria set out in Table 5.1 of the height strategy. The matters arising will be addressed throughout this assessment.
- 7.2.3. As amended by way of further information the building has been reduced from 5 storeys (with 5th recessed) to 4 storeys with 4th recessed and now provides for 38 no. apartments. The top floor is recessed 7.5 metres on the east and west facing gables. The overall height is now 16.5 metres which is a reduction of approx. 3 metres from that originally proposed. The building retains the rear return which is 3 storeys in height.
- 7.2.4. At its closest point the building is to be 7.2 metres from the southern boundary with the dwellings in Mount Eagle Rise. As noted above this rear return is three storeys

with a height of 10.723 metres. The internal configuration of the apartments results in the window opes in the southern elevation functioning more as a design feature than essential to the lighting of the units which are dual aspect with an east/west orientation. The opes in the southern elevation are to be fitted with glass blocks which do not allow for views out. Therefore overlooking from these windows would not be possible.

- 7.2.5. The main rear elevation of the building is to be 14.6 metres from the southern boundary at its closest point. Winter gardens/enclosed balconies are proposed in the southern elevation. Whilst it is accepted that a number of properties in Mount Eagle Rise have been extended, which may not have been accounted for on the drawings, on the basis of the information available, separation distances of not less than 30 metres will be maintained. I note reference made by appellants to cabins erected in the rear gardens of Mount Eagle Rise but such structures would generally be orientated into the respective gardens and not to the northern site boundary. On this basis overlooking would not arise.
- 7.2.6. The setback from the boundary with Hill House to the east is approx. 8 metres with a setback of 14.7 metres from the house. Mature planting within Hill House backs onto the shared boundary. Subject to the appropriate treatment to the north-eastern corner of the winter gardens of units 01, 12 and 23 overlooking will not arise. The window opes to the north-eastern elevation serving the living/kitchen/dining areas are high level only.
- 7.2.7. The building is to be setback c.7 metres from the boundary with Cragleigh to the south-west and would be 8 metres from the house. As noted on day of inspection whilst the dwelling has windows facing onto the site its proximity to the boundary, currently delineated by a hedge, already impacts on daylight to same and precludes overlooking.
- 7.2.8. The amended design with the recessing of the top floor, whilst successful in reducing the massing and bulk of the building, requires appropriate design measures setting back the perimeter of the terraces/balconies and installation of planting boxes/landscape buffers so as to address overlooking concerns. This can be addressed by way of condition.

- 7.2.9. The Daylight, Sunlight and Overshadowing Report accompanying the application was amended by way of further information. In terms of neighbouring properties the study assesses Vertical Sky Component (VSC), Annual Probable Sunlight Hours (APSH) and sunlighting. The effects were assessed in the baseline state versus the proposed state. Concern is expressed by an appellant that No. 19 Mount Eagle Rise has been excluded from the sunlight analysis. This is correct although it has been included in the daylight analysis. I would suggest that this omission is not deliberate and I consider that sufficient detail has been provided with respect to the properties to either side in Mount Eagle Rise as to allow for a proper assessment in terms of impacts on No.19. The impact on daylight (VSC) and sunlight (APSH) are set out in Appendix III. The results indicate that the scheme complies with the BRE guidelines and that an acceptable level of skylight and sunlight access will be retained by existing windows surrounding the site with the proposed development in place. Appendix IV sets out the modelling in terms of overshadowing in terms of existing gardens. As the building is to the north of the properties in Mount Eagle issues in terms of overshadowing do not arise. The impact on adjoining properties to the east and west is marginal. All garden areas would receive materially in excess of 2 hours sunlight on 21st March.
- 7.2.10. Having regard to the amended design and the separation distances between the proposed development and surrounding existing development, I am satisfied that the proposal would not cause undue loss of light for neighbouring residents.
- 7.2.11. The application is accompanied by an Arboricultural Assessment. It is stated that all trees and planting will be required to be removed to facilitate the development including those providing a level of screening along the southern boundary with Mount Eagle. A hedge backs onto the site in the garden of The Gables with a line of Lawson Cypress evergreen trees to the rear of Whitethorn. As to why these or part thereof are not being retained and supplemented is unclear. I recommend that a revised landscaping plan seeking the retention and augmentation of the said planting to allow for a level of screening with Mount Eagle Rise be attached by way of condition should permission be granted.
- 7.2.12. Rendered 3D views of the proposed development accompany the application. Whilst the adequacy of the images has been queried by parties to the appeal I consider that they are representative of the main views available towards the site

from public viewpoints. Such images are only a tool, albeit a useful tool, in assisting and informing an assessment of the potential effects of the proposal.

7.2.13. In the context of the prevailing open views along Leopardstown Road arising from the setback of the existing dwellings from the roadside, the dominance of the stone boundary walls in place since the road realignment, and the mature planting in gardens of adjoining sites, I consider that the proposed apartment block can be accommodated without undue visual impact. The fact that the block will be forward of the prevailing building line is not, in my opinion, not problematic. In terms of views from Mount Eagle to the south a number of appellants consider the images provided to be inaccurate. Taking into consideration the site levels, the falls from south to north and the setback and recessed nature of the top (4th) floor the proposed apartment building will not be visually evident in views from public areas within the estate.

7.2.14. I acknowledge that the proposed development will result in significant changes to the environment and the outlook from the nearest properties, including those in Mount Eagle Rise, will be materially altered. However, I consider that the proposal would be of a scale and at a distance from existing properties that would avoid any unacceptable overlooking or overbearing impacts. Whilst it would involve an intensification of activity at both construction and operational stages, I consider that the impacts would be acceptable having regard to the established character of the area and the need to facilitate the redevelopment of the site in accordance with national and local planning policies.

Prospective Residential Amenities

7.2.15. As amended the scheme provides for 38 no. apartments units in the following mix:

- 15 no. 1 bed (40%)
- 21 no. 2 bed (4 person) (55%)
- 2 no. 3 bed (5%)

7.2.16. As outlined in the Residential Quality Assessment and the accompanying drawings the proposed development is in compliance with the Apartment Guidelines which have been incorporated into the 2022 County Development Plan in terms of minimum floor area requirements, bedroom sizes, living/dining/kitchen room sizes,

storage, floor to ceiling heights, lift and stairs cores and waste facilities. I calculate 19 units to be dual facing which equates to approx. 50% thereby meeting the 50% requirement as set out in the current development plan. All units are served by balconies/winter gardens or terraces which exceed the minimum requirements. I refer to my assessment of the top floor balconies/terraces. All can attain generous open space provision even with the setback and screening requirements to be conditioned.

- 7.2.17. In terms of the Average Daylight Factor (ADF) two internal daylight assessments were undertaken. The 1st excludes the winter garden areas as habitable spaces and only assess the area of the Living/Kitchen/Dining (LKDs) and bedrooms for daylight. The 2nd includes the winter garden areas as habitable spaces. All 101 proposed habitable rooms were assessed with the results set in Appendix IV of the study. All rooms will meet the minimum recommended ADF targets of 1% for bedrooms and 2% for LKDs in both assessments. I am satisfied that the applicant has provided a floorplate design that allows for good levels of daylight penetration and I note that in all cases, a balcony or winter garden has been provided and glazing proportions are generous
- 7.2.18. In terms of sunlight (ASPH), in assessment 1, of the 82 relevant windows 66 (80%) will meet the BRE criteria for winter sunlight and 44 windows (54%) will meet the recommended criteria for total (annual) sunlight. A large proportion of the windows that do not meet the BRE's sunlight target criteria face north or are located beneath projecting winter gardens which restrict the view of the sky/sun to the point at which the ASPH assessment is assessed (the centre of the window). The latter units are south-facing. Of the 14 windows identified that do not meet the BRE's sunlight target criteria for winter and the 13 windows that do not meet the target total sunlight are orientated north. Contrary to the agent for the applicant's view that all the said affected units are dual frontage I do not consider that the units with windows/doors onto the side of balconies constitute, what are normally considered 'dual aspect'. I calculate that 6 no. apartments are effectively single aspect and north facing.
- 7.2.19. In terms of assessment 2 of the 79 relevant windows 65 (82%) will meet the BRE criteria for winter sunlight and 66 (84%) will meet the recommended BRE criteria for total (annual) sunlight.

7.2.20. A room which receives good levels of skylight, but reduced levels of sunlight, can still be expected to maintain a pleasant and bright appearance for most parts of the day. Further the BRE notes that the numerical guidelines should be interpreted flexibly as natural lighting is only one of many factors in layout design. I note that the 6 no. single aspect, north facing units all exceed the minimum floor area and private open space requirements. Living room windows are no longer recessed and are on the outer face of the elevation. Combined with good ADF results for all units the relative ASPH figures are acceptable and in my opinion will provide for an acceptable level of residential amenity.

7.3. Access and Parking

7.3.1. As amended by way of further information the vehicular access is proposed in the north-western corner of the site with the necessary sightlines attained. A Traffic and Transport Assessment for the original proposal of 48 no. apartment units concludes that the proposal would not impact negatively on the operation of the surrounding road network. I note that the Transportation Planning Section has no objection to the amended proposal subject to the existing boundary wall being reduced in height to the south-west to allow for adequate sightlines.

7.3.2. As noted previously the 2022 County Development Plan came into effect since the planning authority's assessment of the development with the parking requirements for 2 bedroom apartment units revised downwards. A total of 40 no. parking spaces are to be provided. Under the current development plan provisions in the region of 43 parking spaces are required (1 space for 1 and 2 bed units, 2 spaces for 3 bed units and 1 space per 10 units for visitor parking). Taking into consideration the location of the site within 1km of quality public transport, the shortfall arising is not considered material. Transportation Planning Section had no objection to the parking provision subject to conditions.

7.4. Other Issues

7.4.1. The application is accompanied by a Site Specific Flood Risk Assessment which concludes that the site is not at risk of flooding nor would it give rise to flood risk elsewhere. The proposed stormwater discharge flow at 1.10l/s is below the 2l/s

limit as required by the Drainage Division. The attenuation storage volume has been calculated as 278m³. The development's surface water network has been modelled to simulate a 50% blockage scenario with a small number of exceedances calculated at manholes SWMH6, SWMH9 and AWMH10 during a 1 in 100 year storm event. Such scenarios would be contained within the site and would not impact on adjoining properties. I refer the Board to the response to the further information in this regard.

7.4.2. Concerns have been raised about noise and disruption including potential for rock blasting during the construction. While disturbance is an inevitable and typical consequence of any development and there would be likely to be some disruption for local residents during construction, this would only be for a temporary period. In this regard I note that a Construction Management Plan and Noise Impact Assessment have been submitted. A finalised version of the construction management plan will be required which will identify measures to avoid nuisance impacts arising to neighbouring residents including construction hours. The details of this plan will be subject to agreement with the Planning Authority prior to commencement of development and, as such, I am satisfied that these matters can be satisfactorily addressed by way of planning condition.

7.4.3. I note that the application is accompanied by an operational waste management plan for the scheme and includes details of facilities for the storage, separation and collection of waste and the ongoing operation of these facilities. In addition detailed proposals for the lighting of the scheme have been provided. The said details are deemed acceptable by the planning authority.

7.5. **Appropriate Assessment**

I submit that having regard to the nature and extent of the development and the location of the site on fully serviced lands and to the distance to the nearest European Sites it is concluded no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions

9.0 Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan, 2022, in particular policy objective PHP18 which seeks to promote infill residential development and increased residential densities, and having regard to the pattern of existing development in the area and the design, height, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety, would not lead to a risk of flooding of adjacent properties and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 15th day of March, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Installation of screening at 3rd floor level delineating the balcony/terrace areas, setback a minimum of 1.2 metres from the building edge. The screening shall have a minimum height of 1.5 metres.
 - (b) Installation of screening/louvres to the north east elevation of the winter gardens serving Apt Units 01, 12 and 23.

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

Reason: In the interests of protecting the residential amenities of adjoining properties.

3.
 - (a) the existing vehicular entrances serving the existing dwellings on the site shall be closed up and the footpath and cycle track along the roadside frontage shall be reinstated at the applicant's expense. The works shall comply with the detailed standards of the planning authority for such road works.
 - (b) the existing boundary wall on the south-west side of the proposed new vehicular entrance shall be reduced to a maximum height of 1.1 metres for a minimum distance of 2 metres.

Reason: In the interests of traffic safety

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of construction the applicant shall submit full details of the proposed green roofs and formal maintenance of same to be agreed in writing with the planning authority.

Reason: In the interest of public health.

5. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of orderly development.

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

Reason: In the interest of visual amenity.

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

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

8. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Such proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles, in the interests of sustainable transportation.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. No additional development shall take place above the apartment block's roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

12. A revised landscaping scheme incorporating the retention of the existing planting along the southern boundary of the site and measures to protect the trees and hedges to be retained during the construction phase shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

The agreed landscaping scheme shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual and residential amenities.

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance

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

Reason: In the interest of sustainable waste management.

16. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and Section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

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

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

Reason: To ensure the satisfactory completion and maintenance of the development.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

20. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – ('Sandyford to Cherrywood') in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Pauline Fitzpatrick
Senior Planning Inspector

December 2022