



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313363-22

#### Development

Demolition of all existing structures on site, construction of a residential development of 96. no apartments and all other associated site works.

#### Location

Richmond Cheshire Home, Richmond Park, Monkstown, Co. Dublin

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D22A/0070

#### Applicant

Randalswood Construction Limited

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First & Third Party

#### Appellants

1. Randalswood Construction Limited
2. Liam and Tove O'Flanagan

#### Observers

1. Brian and Linda Kelly
2. Monkstown Road Residents Association

3. James C. Barry
4. Bairbre and Robert Stewart
5. Douglas and Geraldine Barry
6. Michael Begley
7. Marion O'Grady-Sommer
8. Belgrave Square Residents Association
9. Catherine Walsh and Christine Nelson
10. Palma Management Co. Ltd
11. Nesson and Carol Kelly
12. Eve Roche and John Palmer
13. Valerie and Christopher Moore
14. Tony and Carmel Sheppard
15. Bernard and Rosaleen Duggan
16. John and Denise McEvoy
17. David and Lucy Tyndall

**Date of Site Inspection**

26<sup>th</sup> July 2023

**Inspector**

Margaret Commene

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## 1.0 Site Location and Description

- 1.1. The subject site comprises of an 'L' shaped parcel of land located off Carrickbrennan Road in the centre of Monkstown Village, Co. Dublin. It has a stated area of 0.95 hectares and comprises the grounds of a former nursing home premises (Richmond Cheshire Home) and 5 no. associated studio apartments. The existing single storey structures, hard standing and parking areas associated with the nursing home occupy most of the site. The existing nursing home building is currently used as a family hub by the HSE. A riparian corridor/extensively planted area features adjacent to the site's northern boundary and the Stradbroke Stream (also referred to as the Monkstown Stream) flows through this area. A smaller planted/green area also features adjacent to the site's western boundary and a heavily planted embankment features along to the site's southern boundary. There is a level difference across the site (south to north) of c. 7 metres. The area in the immediate vicinity of the site is also subject to a gradient, the subject site sitting higher than dwellings to the north and lower than dwellings to the south.
- 1.2. The site is accessed from Carrickbrennan Road via Richmond Green which is a cul-de-sac extending in a southerly direction. More specifically, the subject site is located south-west of this cul-de-sac roadway and it also serves the Richmond Green housing estate, which comprises of 2-3 storey dwellings; a terrace of double storey dwellings known as Alma Place; and Ronard and 2 Richmond Park Drive, both of which are 3-storey detached houses featuring off Kenilworth Way, and also provides rear access to No. 105 Monkstown Road. All these properties sit to the east of the proposed development. At the time of inspection, I noted extensive kerbside parking along this cul-de-sac.
- 1.3. The land to the north, south and west of the subject is in residential use. To the north, are Nos. 81A Monkstown Road (westernmost part), 87 Monkstown Road (central part) and 95 Monkstown Road (easternmost part). A 7 no. unit residential development is currently under construction at No. 81A Monkstown Road. No. 87 Monkstown Road comprises of a double storey detached dwelling set within a mature landscaped garden. No. 95 Monkstown Road comprises of a double storey residential centre set within a large mature landscaped garden. On all 3 no. of these sites, extensive tree planting features proximate to the common boundary with the subject site. To the

south (westernmost part), are Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park which comprise of a row of two-storey semi-detached and detached dwellings. The site's southern boundary (easternmost part) is flanked by a pedestrian walkway that links the cul-de-sac with Richmond Park. To the west, is part of the grounds/gardens associated with Dalguise House, a double storey dwelling which is a Protected Structure. Extensive tree planting features in the part of the garden/grounds proximate to the common boundary with the subject site.

- 1.4. Monkstown Village has a wide array of retail, commercial and social services and is well served by public transport. Salthill and Monkstown DART station is located approximately 400 metres to the north-east of the subject site. The subject site is within 100 metres of Bus Stop No. 3073 on Monkstown Road which is served Bus Routes No. 7, 7A, 7D and 703 (Aircoach).

## **2.0 Proposed Development**

- 2.1. Planning permission was sought for: - demolition of existing structures on site; and construction of a residential development comprising of 96 no. apartments in 2 no. blocks as follows:
  - Block A (6 storey over basement) containing a total of 48 no. apartments, comprising of 24 no. one bed apartments and 24 no. 2 bed apartments; and
  - Block B (6 storey over basement) containing a total of 48 no. apartments comprising of 24 no. one bed apartments and 24 no. two bed apartments.
- 2.2. The development is served by 96 no. car parking spaces (8 no. of which include EV charging points), 10 no. motorcycle spaces, and 176 no. bicycle parking spaces at basement level; and a car parking/set down area featuring 3 no. car parking spaces and 36 no. bicycle parking spaces at surface level, as well as a landscaped area including play equipment. Vehicular/pedestrian access to the development will be as per the existing arrangements, via Richmond Green accessible off the intersection of Carrickbrennan Road and Richmond Road. A future pedestrian access at the boundary with the Dalguise lands to the west (subject to agreement) is provided for.
- 2.3. The proposed development will be contemporary in design and materials/finishes will consist of brick, metal cladding, concrete and aluclad framed windows/doors/cills.

- 2.4. Foul waste and water supply will connect to the existing Irish Water infrastructure featuring along the cul-de-sac. SUDS measures are incorporated within the development.
- 2.5. The application is accompanied by a Natura Impact Statement (NIS).
- 2.6. A summary of the key site statistics/details of the proposed development are provided in the table below:

<b>Site Area</b>	0.95Ha
<b>Demolition Works</b>	1,701sqm
<b>No. of Residential Units</b>	96 no. apartments (48 no. 1-bed units and 48 no. 2-bed units)
<b>Total Gross Floor Area</b>	11,705sqm
<b>Open Space</b>	592sqm of communal open space, inclusive of 165sqm play area
<b>Car Parking</b>	99 no. in total (96 no. resident parking spaces and 3 no. visitor car parking spaces)
<b>Bicycle Parking</b>	212 no. in total (176 no. resident bicycle parking spaces and 36 no. visitor bicycle parking spaces)
<b>Motorcycle Parking</b>	10 no. spaces
<b>Part V Units</b>	9 no. apartments
<b>Density</b>	170 units per hectare based on net site area of 0.565Ha (which excludes the access road/'buffer' area/embankment)/ 101 units per hectare based on entire site area
<b>Height</b>	6 storeys over basement
<b>Site Coverage</b>	15%
<b>Plot Ratio</b>	1.2
<b>Dual Aspect Apartments</b>	50%

## 3.0 Planning Authority Decision

### 3.1. Decision

On 25<sup>th</sup> March 2022, the Planning Authority decided to refuse the development sought under this application for the following stated reason:

- 1. The proposed development, by reason of its height, bulk, scale, massing and layout, fails to have due regard to its surrounding context, would have a detrimental and negative impact on the surrounding amenities and character of the area and would be seriously injurious to the residential amenities of properties located within its immediate vicinity and would be visually overbearing. The proposed development is considered to be contrary to the policies and objectives of the current County Development Plan, including Policy RES4, Section 8.2.3.3(iv) and Appendix 9 (Building Height Strategy) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would therefore be seriously injurious to the residential, visual amenities and character of the area, depreciate the value of property in the vicinity, and would therefore be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

- The subject site would provide for high-density development within 1km of Salthill and Monkstown Dart Station, and proximate to a high frequency bus network. In this regard, it is considered that the principle of a residential infill development at this site is acceptable.
- The existing buildings on site are not Protected Structures, are not located within an Architectural Conservation Area, and are not considered to be of heritage interest. The removal of the existing buildings on site to accommodate the proposed residential development is therefore considered acceptable.



- The subject proposal, for 96 no. units results in a 'gross' density of 101 units per hectare on a total site of 0.95Ha or a net density of 138 units per hectare (excluding the access road etc. for a reduced, usable site of c. 0.7Ha). Although the Planning Authority is satisfied that the site is appropriate for a higher density residential development, serious concerns remain with regard to the overall scale, massing and form of the proposed development, and how it relates to its setting and surrounding context. A high-quality design would be required in order to absorb such a high residential density.
- It is considered, the proposed apartment development, providing for one-bedroom and two-bedroom units, would meet the Apartment Guideline standards and would contribute to the provision of a greater mix of dwelling types within the wider area of the subject site, which is characterised predominantly by low-density housing, e.g. by catering for different categories of household, however the Planning Authority have concerns that the mix of units is poor and in any future planning application an improved mix with some larger 3 bed units should also be included in order to improve the overall housing mix.
- It is noted that the submitted details indicate, what is considered by the Planning Authority, to be excessive height of the subject proposal, in relation to the relatively close site boundaries to the south and north, and to the existing residential dwellings to the rear in particular, and to the north, to a lesser extent, and notwithstanding the significant changes in ground levels between the site and the surrounding area. Having regard to the height, massing and arrangement of the proposed development, and the topography of the subject site, and adjacent lands, the separation distances provided are not considered compliant with Section 8.2.3.3(iv) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and should be increased in any future planning application.
- The overall height, form and massing of the proposed blocks are considered to be significant, particularly in relation to the receiving largely 2 storey environment, with a maximum height of 19.6 metres noted, being 6-storeys over basement and noting the small (c. 2 metres) balcony depth setbacks of the top two floors, from the main body of the blocks to the front and rear elevations.

- It is noted that the submitted details indicate the proposed development as significantly higher, by circa 1 to 2 floor levels, to the two-storey houses to the rear, including taking account of the substantially higher ground level of the existing houses to the rear. It is also considered that the two blocks are of a substantial mass, with a length of c. 36 metres each and both blocks of the same design/dimensions.
- Having regard to the site context, its backland nature, the topography of the immediate area, inadequate separation distances between the proposed development and existing adjoining properties, and in particular the height proposed, and in combination with their length would be visually obtrusive when viewed from the surrounding area.
- The contemporary design approach adopted, including the use of predominantly buff-coloured bricks, cladding, 'high performance concrete surface', mid-elevation sections cladding and glazed balconies, is considered by reason of its design to be high quality and generally acceptable.
- In terms of the Apartment Guidelines, the proposed apartments would accord with the requirement of SPPR3 regarding floor area. It is also considered that the in-set balconies are generally of an acceptable size/dimension, having regard to the Apartment Guidelines. Given 50% of the proposed apartments are dual aspect, the proposal development would also comply with SPPR 4 of the Apartment Guidelines. It is noted that there appears to be 16 no. north-facing/single-aspect apartments, though 0 are noted in the accommodation schedule. This detail would need to be clarified by the applicant in any future application and in any future application these should be avoided.
- In the context of SPPR 5, the 2.7 metre floor-to-ceiling heights is considered acceptable in general, however, some concerns are raised regarding the ceiling height, and the relatively close proximity of the ground floor rear apartment units to the rear retaining wall. Further consideration is needed in this regard.
- The proposed development complies with the requirements of SPPR6.
- The proposed development includes 2 no. apartment blocks, with both blocks being of the same design and 6 storey over basement height, with relatively small

(c. 2 metres) setbacks to the front and rear elevations and marginal setbacks from the main side facades on the top floor levels. It is noted that the subject proposal does not include the rear (south) wings/blocks of the previous SHD design and does not have the same more staggered height design, of 4, 5, 6 to 7 storeys in height, of that recent application. It is noted that the subject site is located within the 'Coastal Fringe' designation in the County Development Plan.

- When assessed against SPPR3 of the Urban Height Guidelines, at the scale of the city/town, the Planning Authority recognises that the subject site is well served by public transport but it is considered that the development proposal incorporating increased height does not successfully integrate into or enhance the character of the area. There is a particular concern, that at the scale of district/neighbourhood/street, the proposed development does not respond to its overall natural and built environment, nor does it make a positive contribution overall to the neighbourhood or streetscape.
- Having regard to the overall size of the site and its location, it is considered that some additional height can be absorbed at this location, subject a carefully considered architectural response. It is therefore considered that the site is suitable for accommodating additional building height which will assist in securing National Planning Framework objectives, by providing compact urban growth at this location.
- The proposed scheme does not fully accord with the policies contained within the Building Height Strategy of the Development Plan. Although it is considered that additional height has the potential to be absorbed at this location, the Planning Authority considers that downward modifiers of the BHS may apply where proposed developments would adversely affect, for example No. 1 (residential living conditions through overlooking, overshadowing, or excessive bulk and scale), and No. 5(i) the Coastal Fringe Zone, are relevant in this instance. In addition, concerns arise in relation to the living conditions of adjoining residents in terms of overlooking, overshadowing and excessive height, bulk and scale. There is serious concern regarding the height of both blocks, and also of overlooking of the surrounding neighbouring residential properties from the two blocks. The Planning Authority considers that the proposed scheme does not

successfully respond to the character of the surrounds, and will have a negative impact on the residential/visual amenity of properties in the vicinity.

- While it is noted that the subject site is not located in an urban location and is in fact a suburban location, an assessment of the criteria contained within Section 3.2 of the Building Height Guidelines is included.
- At the scale of the relevant city/town: - the Planning Authority is of the opinion that the site is well served by public transport and therefore would satisfy the above development management criteria to justify increased building height at this location. However, having regard to the character of the area, and its proximity to existing houses, the Monkstown Architectural Conservation Area and a no. of Protected Structures, the Planning Authority is of the view that the site is located within a somewhat visually sensitive area. The Planning Authority considers that the proposal fails to have due regard to the character of the site and surrounds, particularly having regard to the receiving site/context and prevailing character of the area. The Planning Authority also has serious concerns regarding the provision of buildings with overall 6 stories, over-basement height, and their proximity to nearby one and two-storey properties. It is considered, that it has not been demonstrated that the proposal would successfully integrate or enhance the character and public realm of the area.
- At the scale of district/neighbourhood/street: - while the Planning Authority welcomes the proposal to develop a residential scheme on 'A' zoned lands at this suburban location, it is considered that the proposal, given its height, scale and massing, in this specific context, would appear visually overbearing when viewed from the surrounding dwellings/areas, and would therefore not meet the development management standard requiring that a proposal respond to its overall natural and built environment/makes a positive contribution to the urban neighbourhood and streetscape. While the Planning Authority notes that the materials and building fabric have been well considered within its context, the Planning Authority has serious concerns regarding the height, mass and scale of this development. In terms of meeting the development management standard requiring that proposals enhance the urban design for public spaces and key thoroughfares and inland waterway/marine frontage, it is noted that the DLRCC

Drainage Planning Dept. do not cite objections to the proposal but recommend further information be requested. In the context of the development management standard requiring that a proposal makes a positive contribution to the improvement of legibility through the site or wider urban area, the Planning Authority does not consider that the proposal in terms of its overall height, and combined scale, would make a positive contribution to the improvement of legibility through the site, or wider urban area. In the context of the development management standard requiring that a proposal positively contributes the mix of uses and to building/dwelling typologies available in the neighbourhood, the Planning Authority is concerned that the mix of units is not broad enough.

- At the scale of the site/building: - following an analysis of proposed apartments and other submitted documents including floor plan drawings, there are some concerns regarding adequate sunlight and daylight access to amenity areas and apartments to the rear and from elevations.
- In conclusion having regard to an analysis of the Building Height Strategy of the current Development Plan and the relevant Section 28 guidelines, the Planning Authority is satisfied that the subject site is capable of absorbing a substantial residential development. However, this is subject to a carefully considered architectural response which has due regard to its setting/context. The Planning Authority considers that a building of six (6) storeys, over-basement height, in combination with the scale, form and massing of the overall scheme, at this location is inappropriate and not acceptable, and is at odds with the character of its surrounds and receiving environment.
- It is considered overall, having regard to the relatively restricted layout of the site, and the height/orientation of the proposed blocks, and the restrictions on the site in terms of the front stream, bank, and rear bank/retaining wall, that the indicated 'Communal Open Spaces' to the front (north) of the site, would be of limited functional use for the future residents of the proposal, due to the overshadowing, and visual impact of the blocks themselves, and the limited depth, and landscaping and banks to the front curtilage area. It is noted that the restrictions of the site, including block layouts and orientations, and changes of

levels/retaining walls, have been raised as issues in previous applications and this issue has not been overcome in the current proposal.

- The provision of a link with the adjacent site (Dalguise) is welcomed but issues pertaining to its specific details need to be ironed out.
- A childcare facility has not been included in the proposed development, contrary to Policy SIC11 of the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- A small portion of the extreme north end of the access avenue is within the Monkstown ACA. There do not appear to be any issues in relation to conservation or built heritage.
- In terms of visual and residential amenity, the proposal would have significant negative impacts, and fails to have regard to its surrounding context and area character, particularly with regards to the residential properties in the vicinity and receiving environment. The proposed development is also considered to be overdevelopment of the site. The proposal would therefore have a detrimental impact on surrounding amenities, due to its excessive height/mass, its proximity to surrounding boundaries and layout, and on the character of the surrounding area. The proposed development is also considered to be contrary to the policies/guidelines of Appendix 9 (Building Height Strategy) of the current County Development Plan, and the Building Height Guidelines and should therefore be Refused planning permission in this instance.
- The issue of the applicant's land ownership along the access road from Carrickbrennan Road/footpath adjacent was addressed under the previous planning applications pertaining to the subject site, as well as by way of condition attached to the Board's grant of permission under Reg. Ref. D17A/0590/ABP-301533-18. In the event of a grant of permission, it is recommended that a similar condition be attached.

### 3.2.2. ***Other Technical Reports***

**Transportation Planning (31/01/2022):** Recommended that the following further information be requested: - revised drawings and details demonstrating adequate allocation of visitor parking for the proposed development, revised drawings and

details demonstrating the provision of an allocated car parking space for the use of a car-sharing scheme/a letter of support from a car-sharing service provider, revised drawings and details which demonstrate the provision of a minimum of 10 no. fully operational electric vehicle charging points, revised drawings and details which demonstrate the provision of a minimum of 192 no. cycle parking spaces (a minimum of 120 shall be shown as the preferred “Sheffield” type stand), a revised construction management plan, which outlines in detail required measures which will be implemented to prevent damage to the recently completed Monkstown Village Traffic Improvement Scheme, a revised Traffic and Transport Assessment which includes up to date traffic survey information which reflects any proposed layout and usage changes since 2019 and revised road/site layout drawings incorporating signage clearly communicating the proposed 10km/h speed limit extent, measures to restrict general vehicular access across the site (proposed grass-crete areas), the provision of an accessible access to the adjacent site to the west (Dalguise), address potential conflicts arising from the proposed vehicular access layout and provision of a STOP sign at the top of the proposed basement ramp/a level on-ramp “dwell area” to allow vehicles to comfortably stop while accessing visibility.

**Environmental Section (8/03/2022):** Recommended that further information be requested requiring submission of a Construction and Demolition Resource Waste Management Plan, a Public Liaison Plan, a Construction and Operational Noise Management Plan, noising monitoring and a Noise Management Plan, an Operational Waste Management Plan and a Rodent/Pest Control Plan.

**Biodiversity Section (03/02/2022):** No objection, subject to conditions being attached.

**Drainage Planning (28/02/2022):** Recommended that further information be requested regarding surface water outfall discharge rate, the attenuation strategy, maintenance access to the green roofs, the provision of a flap valve and potential flooding.

**Environmental Health Service (28/02/2022):** Recommended that further information be requested requiring a noise assessment, a revised Operational Waste Management Plan and evidence of compliance with communal storage requirements

outlined in the Apartment Guidelines. They also recommended that construction hours be restricted due to the residential abutments.

**Housing Dept. (08/02/2022):** No objection, subject to a condition being attached requiring the entering into an agreement in accordance with Part V of the Planning and Development Act, 2000, as amended, prior to commencement, unless the applicant/developer shall have applied for and been granted an exemption certificate.

**Public Lighting Section (08/02/2022):** No objection.

### 3.3. Prescribed Bodies

**Irish Water (01/03/2022):** No objection, subject to standard requirements.

### 3.4. Third Party Observations

27 no. third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

#### Layout, Design and Appearance

- Overdevelopment of restricted site.
- Excessive density/queries re how density is calculated.
- Excessive height.
- Visually dominant/out of character with Monkstown built and suburban environment.
- Not in-keeping with architectural heritage of area, including the Monkstown Architectural Conservation Areas.
- Design incorporates inappropriate materials.
- Top two floors proposed an incongruous addition to previous design.
- No objection in principle to development of site but it needs to be refined and improved. A 96-unit mass development is unsuitable.



### Residential Amenity

- Proposal two floors above surrounding existing houses to rear, and impacts on views.
- Very small apartments proposed. Also 16 no. (15%) north facing apartments are proposed which is substandard.
- Open spaces proposed are inadequate in terms of quantity and quality. They were previously noted as being overshadowed and not viable for future residents.
- Noise and vibration impacts of stone/bank removal and construction works proximate to boundaries with adjacent houses. Also, resultant noise will have negative impacts on the adjacent special primary school.
- Negative impact on residential amenity during construction period which is likely to be longer than stated 5.5 months.
- Loss of privacy, including due to loss of trees on bank, the inclusion of balconies within 11 metres of adjacent amenity space and construction of the development c.14m from adjacent granted scheme at No.81A Monkstown Road (Reg. Ref. D19A/0349). Also the sunlight/ daylight assessment does not look at impact on adjacent granted scheme.

### Access, Parking and Traffic

- Taken alone, or with Dalguise, excessive pressure on services and traffic.
- A condition should be added requiring that the developer landscape and maintain roadway/paths up to gateway entrance to Carrickbrennan Road.
- Unsafe refuse truck reversing movement proposed to the basement ramp and inadequate turning circle provided for service vehicles and fire tenders.
- The ESB sub-station and removal of hedgerow/trees beside the ramp is not supported.
- The proposal impacts on the way-leave featuring along the access road.
- Part of access road includes the provision of a wider footpath on land not owned by the applicant. Proposal no longer includes agreed 1m wider footpath of ABP

condition no.3 of D17A/0590 (ABP301533-18) regarding separate part road ownership by No. 105.

- Traffic safety impact from blind bend at Richmond Green, and pedestrian link safety impact to Richmond Park. The five traffic hazards suggested in previous applications not resolved by this proposal.
- There is a traffic hazard at Carrickbrennan Road intersection and at the top of basement ramp (no ramp gradient given). No Auto-track or DMURS (Design Manual for Urban Roads & Streets) at intersection of Richmond Green and Monkstown Road or the blind bend further south.
- There will be increased traffic congestion in the village.
- Narrow access road cannot support two-way traffic.
- Parking spaces 5 & 6 at Richmond Green will be compromised. The path shown on access road does not exist and the area it is proposed within is outside the application boundary. This is a flaw in the application as no continuous path is provided to Carrickbrennan Road.
- Traffic calming humps are unsuitable outside houses.
- The traffic survey included is out of date, not including recent changes and all traffic increases.

#### Planning Policy

- Materially contravenes the Development Plan.
- Contrary to Development Plan Building Height Strategy, and Coastal Fringe area/policy.
- No justification for increase in height and density from granted 72 units.
- Contrary to zoning objective which seeks to improve residential amenity and Policy RES3 regarding Density.
- Proposed 50% one-bed units contravenes 20%-unit mix specified in the Development Plan.

## Other Matters

- Not indicated clearly on drawings that adjacent Dalguise application is under Judicial Review.
- Extant permission granted before detailed flood modelling for Dalguise site, was carried out. It is considered the proposed development will cause floor risk to surrounding sites.
- Bank proposed to be excavated is sand and likely subsidence of adjacent houses.
- The retention of existing retaining walls is queried in light of the greater depth of basement proposed.
- Negative impact on property values.
- No record of site investigations or boreholes included in application material.
- The Outline CMP is generic and makes no reference to bank works.
- The flood bypass proposals are poorly thought out and leave the area vulnerable to flooding. There is a high water table and the basement car park needs to make provision for flooding, similar to the Oliver Plunkett School. Flood assessment does not account for permitted development at No. 81A Monkstown Road.
- The AA and NIS do not take account of Reg. Ref. D19A/0349 or the overland flooding/potential hydrocarbon in floor waters resulting from the subject proposal. Consultant reports in adequate in their consideration of the downstream effects on SAC and SPA.
- The contiguous drawings are unclear due to excessive illustration of boundary trees.
- GGI's submitted misleading and views missing.
- Proposal dimensions not clear and distances to adjacent north property not shown.
- Recently approved development at No. 81A Monkstown Road should be shown on contiguous drawings.
- Extensive new planting shown is misleading due to large basement area, covering 85% of site.

- Increased burden on existing inadequate sewage system with existing occasions of backup on Monkstown Road residences.
- Compromise integrity and safety of stone boundary wall with special school.
- Irretrievable loss of habitat and biodiversity.
- Excessive removal of trees, negative services impact on Heronry/tree roots. It should have been a DLRCC survey of Herons at site. No apparent specific construction protection measures outlined for the Heronry. Noise and excessive artificial light resulting from the development will impact on the Herony.
- Effort needed to preserve bats nesting in site's trees, and more bat surveys should be carried out.
- No consultation took place with neighbouring school or residents.
- Application is invalid as the proposal description understates height, it should be described as 7 storeys.
- The Arbouricultural Report does not make clear the extent of tree removal and the risk of impacts from trucks on key tree roots under main access has not been assessed.

## 4.0 Planning History

### 4.1. Subject Site

4.1.1. The following 4 no. previous applications pertaining to the subject site are of relevance:

#### ***ABP Ref. ABP-308432-20***

This application involved a proposal for a strategic housing development involving: - demolition of all existing structures on site (Nursing Home and 5 no. studio apartments) and the construction of a residential development comprising of 122 no. apartments (1 no. studio, 57 no. 1 bed, 58 no 2 bed and 6 no. 3 beds) within 2 no. blocks (ranging in height from 4-7 storeys over basement). The development was served by 122 no. car parking spaces, 246 no. bicycle spaces and 5 no. motorcycle spaces (provided at basement level) and 24 no. bicycle spaces at surface level.

The development was refused by the Board on 10<sup>th</sup> February 2021 for the following reasons:

- 1. The Board considered that the proposed development would seriously injure the residential and visual amenities of adjoining properties by reason of its design, scale and mass in particular in respect of the increased levels of overshadowing, overlooking and visual impact and represented overdevelopment of a restricted site, relative to the existing and permitted development on site. The proposed development is considered contrary to the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and to the policies and guidelines of Appendix 9 (Building Height Strategy) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. Board considered that the proposed development by reason of the extent of north facing apartments, and restricted outlook of a significant number of the south and west facing apartments, as well as the layout, location and the sub optimal quality of the proposed public and communal open space and the extent of the retaining wall to the south and west of the site would seriously injure the residential amenities of future occupants of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

*In deciding not to accept the Inspector's recommendation to grant permission, the Board concurred with the recommendation of the Chief Executives Report of Dún Laoghaire-Rathdown County Council in terms of the design, scale and mass of the proposed development and concluded that it represented an overdevelopment of a restricted site. Furthermore, the Board did not consider that the proposed development complied with the criteria set out under Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018, in terms of part (iii) At the scale of the site and building. The Board did not consider that the proposed development would contribute positively to the visual amenity of*

*the area or represent a positive addition to the area. Furthermore, the Board had serious concerns with regard to the residential amenities of future occupants in terms of the sub optimal quality and disposition and layout of public and communal open space provision and due to the scale, height and location of the extensive retaining structures on site which undermined the quality of the overall layout. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

**PA Reg. Ref. D19A/0378 (ABP Ref. ABP-305843-19)**

This application related to a proposal for: - revisions to a residential development previously permitted under Reg. Ref. D17A/0590/ABP-301533-18. The proposed development will consist of the following revisions to the permitted scheme; minor revisions to the siting and footprint of the 2 no. permitted apartment blocks; reconfiguration of the internal permitted floor layouts of both blocks resulting in a total of 72 no. residential units in these 2 no. apartment blocks (1 no. four storey block consisting of 17 no. one beds and 23 no. two beds [Block A]; 1 no. four storey block consisting of 17 no. one beds and 15 no two beds [Block B]) (this is in lieu of a total of 56 no. residential units permitted under Reg. Ref. D17A/0590/ABP-301533-18), elevational changes to accommodate this reconfiguration; revisions to the permitted basement to now provide 79 car parking spaces, 7 motorcycle spaces and 64 bicycle spaces and all associated site works necessary to facilitate the development.

Permission was granted by Dun Laoghaire Rathdown County Council in October 2019. The Planning Authorities decision was subsequently appealed to An Bord Pleanala by a no. of third parties (ABP Ref. ABP-305843-19). The Board, concluding that the proposed development would be acceptable, granted permission for this application in May 2020.

**PA Reg. Ref. D17A/0590 (ABP Ref. ABP-301533-18) – Parent Permission**

This application related to a proposal for: - demolition of all existing structures on site (Nursing Home and 5 no. studio apartments) and the construction of a total of 56 no. residential units in 2 no. apartment blocks (1 no. four storey block consisting of 16 no. one beds, 12 no. two beds and 4 no. three beds; 1 no. four storey block consisting of 8 no. one beds, 12 no. two beds and 4 no. three beds). The development was served

by 76 car parking spaces, 5 motorcycle spaces and 41 bicycle spaces at basement level; and 5 visitor car spaces and 26 bicycle spaces at surface level.

Permission was granted by Dun Laoghaire Rathdown County Council in April 2018. The Planning Authorities decision was subsequently appealed to An Bord Pleanála by a no. of third parties (ABP Ref. ABP-301533-18). The Board, concluding that the proposed development would be acceptable, granted permission for this application in January 2019, subject to 33 no. conditions, including Condition No. 3 pertaining to access. Condition No. 3 reads as follows:

3. *An additional footpath and road markings shall be constructed adjacent to the existing footpath in accordance with drawing number PA-003 submitted to An Bord Pleanála on the 9<sup>th</sup> day of July, 2018.*

**Reason:** *In the interests of clarity and pedestrian and traffic safety.*

**PA Reg. Ref. D16A/0678 (ABP Ref. PL 06D.247679)**

This application related to a proposal for: - demolition of all existing structures on site (Nursing Home and 5 no. studio apartments) and the construction of a total of 70 no. residential units in 3 no. apartment blocks (2 no. four storey blocks each consisting of 16 no. two beds and 8 no. one beds and 1 no. four storey block [fourth storey is set-back] consisting of 2 no. three beds, 14 no. two beds and 6 no. one beds). The development was served by 95 car parking spaces, 4 motorcycle spaces and 30 bicycle spaces at basement level; and 5 visitor car spaces and 54 bicycle spaces at surface level.

Permission was refused by Dun Laoghaire Rathdown County Council in November 2016. The Planning Authorities decision was subsequently appealed to An Bord Pleanála by the applicant (ABP Ref. ABP-301533-18). The Board refused permission for this application in April 2017 for the following reason:

*‘Having regard to the density, scale and layout of the proposed development, the loss of substantial screening arising from the provision of the development and the restricted separation distances between the proposed blocks and adjoining properties, it is considered that the proposed development would seriously injure the residential amenities of adjoining properties and would depreciate the value of these properties. Furthermore, it is considered that the layout of the proposed development and the*

*provision of substandard qualitative functional open space would provide a substandard form of accommodation for future occupiers in terms of residential amenity. The proposed development would, therefore, give rise to a poor standard of development, would constitute overdevelopment of the site and would be contrary to the proper planning and sustainable development of the area.'*

## **4.2. Adjacent Sites**

4.2.1. There has been a no. of recent applications on sites adjacent to the subject site that are pertinent to the current proposal. They are summarised below/overleaf.

**Dalguise House (a Protected Structure), Monkstown Road, Monkstown, Blackrock, Co. Dublin (immediately west of the subject site)**

**PA Reg. Ref. LRD22A/0930**

This application involved a proposal for a Large Scale Residential Development involving (in summary): - demolition/partial demolition of existing structures; construction of 491 no. residential units including 488 no. Build-to-Rent units, consisting of 484 no. new build (across 11 no. blocks ranging in height from 3 to 9 storeys over basement) and 7 no. residential units in the repurposed from Dalguise House, Gate Lodge (Brick Lodge) and Coach House (Dalguise House will also accommodate a restaurant/cafe and residents' amenities); works to the existing structures; landscaping proposals for potential future pedestrian and cycle connections through the site boundaries with the residential estates of Arundel and Richmond Park and the former Cheshire Home site, subject to agreement with those parties and/or Dún Laoghaire-Rathdown County Council, as appropriate; and alterations to Purbeck, including the relocation of 4 no. existing car parking spaces to facilitate the construction of a new vehicular and pedestrian bridge over the Stradbroke Stream. The development will be served by 224 no. car parking spaces (148 no. at basement level; 20 no. at undercroft; and 56 no. at surface level), 8 no. motorbike spaces and 1,071 no. cycle parking (including cargo bike spaces).

This application was refused by the Planning Authority on 15<sup>th</sup> September 2023. The applicants have appealed this decision to An Bord Pleanála (ABP Ref. ABP-318247-23). At the time of writing this report, a determination had not been made on this appeal.



**ABP Ref. ABP-306949-20**

This application involved a proposal for a strategic housing development involving: demolition of existing dwelling and other structures, conversion of Dalguise House to 2 no. houses, construction of 298 no. residential units (20 no. houses, 276 no. apartments), Conversion of Dalguise House to 2 no. residential units and a crèche, conversion of coach house to residential unit and use of gate lodge as a residential unit and second gate lodge as concierge/managers office, relocation of glasshouse and vinery and removal of a second glass house, removal of outbuildings, provision of a bridge over the Stradbrook stream and all associated site works.

The development was granted by the Board in August 2020. The Board's Decision was subsequently quashed by Order of the High Court in February 2023.

**No. 81A Monkstown Road, Monkstown, Blackrock, Co. Dublin (immediately north of the subject site)**

**PA Reg. Ref. D23A/0145**

This application related to a proposal for amendment to PA Reg. Ref. D19A/0349/ABP-307151-20 to include: - A) Modifications to internal layouts to allow for the provision of a lift; B) alterations to the elevations to reflect the revised floor layouts; C) the reduction of the front elevation bay window from 3 storeys with pitched roof to two storeys with parapet roof; D) an increase in the overall height of the units to allow for an increased floor to ceiling height on the ground floor level; E) The addition of a single storey projection to the rear of each unit; and F) The modification to the roof lights to each unit & all associated site works.

Permission was granted by Dun Laoghaire Rathdown County Council on 27<sup>th</sup> April 2023.

**PA Reg. Ref. D19A/0349 (ABP Ref. ABP-307151-20) – parent permission**

This application related to a proposal for: - demolition of the existing site entrance gates off Monkstown Road to form a new road setback and widened vehicular entrance, demolition of the existing bungalow and sheds to rear of the site, partial demolition of the existing boundary wall between the access laneway and northern boundary; the construction of a new access roadway and path to 7 no. residential units comprised of 3 no. 3-storey semi-detached units (6 units in total) and 1 no. 2 bedroom

detached 2-storey unit , together with all associated site works, landscaping, services and utilities.

Permission was refused by Dun Laoghaire Rathdown County Council in March 2020. The Planning Authorities decision was subsequently appealed to An Bord Pleanala by the applicant (ABP Ref. ABP-307151-20). The Board granted permission for this application in October 2021. Construction on site has commenced.

## **5.0 Policy Context**

### **5.1. Dún Laoghaire Rathdown County Development Plan 2016-2022**

The subject application was originally assessed having regard to the Dún Laoghaire Rathdown County Development Plan 2016-2022. This has subsequently expired.

### **5.2. Dún Laoghaire Rathdown County Development Plan 2022-2028**

In the intervening period since the subject application was determined, the Dún Laoghaire Rathdown County Development Plan 2022-2028 has been adopted by the elected members and came into effect on the 21<sup>st</sup> April 2022, save for a no. of sections which have been deleted pursuant to a Ministerial Direction issued in accordance with Section 31(4) of the Planning and Development Act, 2000 (as amended). The applicable sections are: - Section 12.3.8.8 O/O Zone and associated text/symbols appearing on development plan maps; the policy section on 'Notable Character Area Exclusions' under Section 4.3.1; and the first paragraph of Section 12.3.3 Quantitative Standards for All Residential Development.

#### **5.2.1. Land Use Zoning**

The majority of the site is zoned Objective 'A' in the Dún Laoghaire Rathdown County Development Plan 2022-2028 with a stated objective '*to provide residential development and improve residential amenity while protecting the existing residential amenities.*' A small part of the subject site, a sliver to the west of the access road, is zoned Objective 'F' with a stated objective '*to preserve and provide for open space with ancillary active recreational amenities.*'

### 5.2.2. **Other Relevant Sections/Policies**

The northern part of the site is subject to an objective '*to protect and preserve trees and woodlands*'. A small part of the site, more specifically the northern end of the access road off Carrickbrennan Road, is located within the Monkstown Architectural Conservation Area.

The following policies are considered relevant to the consideration of the subject proposal:

#### **Section 2.3.6.4 Housing Target for the Core Strategy**

Table 2.7 details the housing target for the Core Strategy up to Q1 2028. Based on the high growth scenario of the RSES there is a requirement for an additional 18,515 residential units. The subject site is identified, in the map included at Figure 2.8, as a location for Infill/Windfall units in the Development Plan's Residential Development Capacity Audit.

#### **Section 4.3.1 Delivering and Improving Homes**

*'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 density) will be encouraged.'*

*Higher density schemes should offer an exemplary quality of life for existing and future residents in terms of design and amenity.'*

##### **Section 4.3.1.1 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.'*

#### **Section 4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity**

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

#### **Section 4.3.2.3 Policy Objective PHP27: Housing Mix**

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

#### **Section 4.4.1 Quality Design & Placemaking**

*'In accordance with the policies set out in the BHS, where an argument is being made for increased height and/or a taller building and the Applicant is putting forward the argument that SPPR 3 of the 'Urban Development and Building Height; Guidelines for Planning Authorities' (2018) applies, the Applicant shall submit documentation to show that compliance with the criteria as set out in Table 5.1 'Performance Based Criteria' of the BHS (see Appendix 5).'*

##### **Section 4.4.1.1 Policy Objective PHP35: Healthy Placemaking**

*'It is a Policy Objective to:*

- Ensure that all development is of high quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES.*
- Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013).*
- Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency,*

*distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.'*

#### **Section 4.4.1.8 Policy Objective PHP42: Building Design & Height**

*'It is a Policy Objective to:*

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

#### **Section 11.4.2.1 Policy Objective HER13: Architectural Conservation Areas**

*'It is a Policy Objective to:*

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). Please refer to Appendix 4 for a full list of ACAs.*
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.*
- iii. Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.*
- iv. Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.*
- v. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.*
- vi. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.'*

#### **Section 12.3.3 Quantitative Standards for All Residential Development**

Table 12.1 sets out the mix requirements for apartment developments. For schemes of 50+ units within existing built up areas, apartment developments may include up to

80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. A minimum of 20% 3+ bedroom units is required.

#### **Section 12.3.5.2 Separation Between Blocks**

*‘All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.’*

#### **Section 12.3.7.7 Infill**

*‘In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.’*

#### **Section 12.4.5.6 Residential Parking**

A car parking rate of 1 space per 1 and 2 bedroom apartments and 2 spaces per 3+ bedroom apartment is specified for sites located within Parking Zone 2.

#### **Section 12.4.6 Cycle Parking**

*‘Cycle parking should accord with the Council published – ‘Standards for Cycle Parking and Associated Cycling Facilities for New Developments’ (2018) or any subsequent review of these standards’.*

This document specifies a requirement of 1 short stay (visitor) parking space per 5 units and 1 long stay parking space per 1 unit in the context of apartments. In car parking Zones 1 and 2 these minimum standards should be exceeded.

## **Section 12.4.7 Motorcycle Parking**

A minimum motorcycle parking rate of four or more spaces per 100 car parking spaces is specified.

## **Section 12.8.3.1 Public Open Space**

Table 12.8 sets out a minimum public open space requirement of 15% of the site area for residential development in an existing built up area. To qualify as public open space the area must be designed and located to be publicly accessible and useable by all in the County; generally free from attenuation measures; and capable of being taken in charge. It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended.

## **Section 12.8.11 Existing Trees and Hedgerows**

New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives to protect and preserve trees and woodlands.

## **Appendix 5: Building Height Strategy**

It is a policy objective (Policy Objective BHS 1 - Increased Height) to *'support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route) 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.*

.....

*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 outlines Performance Based Criteria for assessing proposals for increased height or taller buildings or for a building that is higher than the parameters set out in any LAP or any specific guidance set out in this County Development plan. 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.

### **5.3. Regional Policy**

#### **5.3.1. Regional Spatial and Economic Strategy for the Eastern and Midlands Area, 2019**

The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area (adopted June 2019) provides a framework for development at regional level. The RSES encourages promotes the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

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

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

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



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

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

#### **5.4. National Policy/Section 28 Ministerial Guidelines**

##### **5.4.1. Project Ireland 2040 National Planning Framework**

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

- National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs.
- National Policy Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.
- National Policy Objective 13 is that, in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- National Policy Objective 35 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

#### **5.4.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)**

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

to purchase or rent at an affordable price.

built to a high standard and in the right place.

offering a high quality of life.

#### **5.4.3. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual**

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50/ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

#### 5.4.4. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022)

These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

Central and/or Accessible Urban Locations - such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;

Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and

Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

These guidelines provide a range of requirements in the context of apartment developments, including the following which are relevant to the subject proposal:

- **Specific Planning Policy Requirement 1:** Developments may include up to 50% one bed/studio units. Studio units to not exceed 20-25% of the total. No minimum requirements for three or more units. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).
- **Specific Planning Policy Requirement 2:** The housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 1 to 49 residential units are proposed in building refurbishment schemes

on sites of any size, or urban infill schemes on sites of up to 0.25ha. For schemes of 50 or more units, SPPR 1 shall apply to the entire development.

- **Specific Planning Policy Requirement 3:** The following minimum apartment floor areas are specified: - Studio apartment - 37sq.m; 1-bedroom apartment - 45sqm; 2-bedroom apartment (4 persons) - 73sq.m; and 3-bedroom apartment (5 persons) 90sq.m. 2-bedroom apartment (3 persons) may also be considered, particularly in the context of certain social housing schemes such as sheltered housing. They must have a minimum floor area of 63sq.m. Minimum floor areas are also outlined at Appendix 1 in relation to minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms; minimum bedroom floor areas/widths; and minimum aggregate bedroom floor areas. Pursuant to paragraph 3.8, the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%). For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, where between 10 to 49 residential units are proposed, it shall generally apply, but in order to allow for flexibility, may be assessed on a case-by-case basis and if considered appropriate, reduced in part or a whole, subject to overall design quality.
- **Specific Planning Policy Requirement 4:** Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.
- **Specific Planning Policy Requirement 5:** Specifies minimum ground level apartment floor to ceiling heights of 2.7 metres. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha,

planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

- **Specific Planning Policy Requirement 6:** Specified a maximum of 12 apartments per core. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.
- The following minimum requirements for storage areas are set out in Appendix 1: - Studio apartment - 3sq.m; 1-bedroom apartment - 3sqm; 2-bedroom apartment (3 persons) - 5sq.m; 2-bedroom apartment (4 persons) - 6sq.m; and 3-bedroom apartment - 9sq.m. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, the storage requirement may be relaxed in part, on a case-by-case basis, subject to overall design quality.
- The following minimum requirements for private amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.
- The following minimum requirements for communal amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 76sq.m; and 3-bedroom apartment - 9sq.m. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.
- The following requirements regarding bicycle storage are set out at paragraph 4.17: - 1 cycle storage space per bedroom (for studio units, at least 1 cycle

storage space shall be provided) and 1 visitor cycle parking space per 2 residential units.

#### **5.4.5. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)**

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dun Laoghaire Rathdown County Development Plan.

These guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. There is a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. SPPR 1 of the Building Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

Section 3.1 of the Building Height Guidelines present the following three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights:

- Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular,

effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?

- Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?
- Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

Section 3.2 of the Building Height Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments.

#### **5.4.6. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011)**

Part of the subject site is within the Monkstown Architectural Conservation Area and the subject site's western boundary abuts the curtilage of Dalguise House, which is a Protected Structure. Therefore, the 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives: a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and b) for preserving the character of architectural conservation areas.

The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures or within an Architectural Conservation Area. Section 3.10 of the Guidelines relates to proposals within an Architectural Conservation Area and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure

or an Architectural Conservation Area. When dealing with applications for works outside the curtilage and attendant grounds of a protected structure or outside an ACA which have the potential to impact upon their character, similar consideration should be given as for proposed development within the attendant grounds.

#### **5.4.7. Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)**

These guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. They provide guidance in relation to development proposals in areas at risk of flooding.

## **6.0 The Appeal**

### **6.1. Grounds of the First Party Appeal**

A first party appeal against the decision to refuse permission by the Planning Authority has been lodged by Downey Planning and Architecture on behalf of the applicant. The following documents accompany the appeal for the Board's consideration:

- A Material Contravention Statement;
- A revised Traffic and Transportation Assessment, prepared by Martin Rodgers Consulting Ltd;
- A revised Outline Construction Management Plan Report, prepared by Lohan & Donnelly Consulting Engineers;
- A revised Proposed Engineering Services Report, prepared by Lohan & Donnelly Consulting Engineers; and
- A letter of intent from Go-Car.

The appeal also includes the following revised plans in response to the Planning Authority's reasons for refusal of planning permission/commentary made by internal departments in relation to the planning application/the recent adoption of the Dun Laoghaire Rathdown County Development Plan 2022-2028:

- Drawings Nos. 243-042-PL-610-REV-A, 243-042-PL-631-REV-A, PL-100, PL-004, AP-101, AP-102 and AP-103, prepared by Downey Planning and Architecture;



- Drawings Nos. C01 Rev.2, C02 Rev.2, C03 Rev.2, C04 Rev.2, C08 Rev.2, C09 Rev.2 and Predicted Flood Extents Stradbroke Stream Cross-Section Sheets 1-14 (inclusive), prepared by Lohan & Donnelly Consulting Engineers.

These revised plans included the following amendments (in summary):

- A 4 no. unit reduction in the no. of apartments proposed (reduced from 96 no. to 92 no.);
- Alterations to the unit mix proposed (from 48 no. 1-bed units and 48 no. 2-bed units to 44 no. 1-bed units, 40 no. 2-bed units and 8 no. 3-bed units);
- An additional car sharing space and 2 no. EV charging spaces have been added to the basement level car parking provision;
- The visibility splay along Kenilworth Way has been increased (from 14 metres to 20 metres);
- A stop sign and dwell area has been added to the basement ramp;
- The grass crete has been revised to provide a resin footpath and a bollard added to restrict vehicular access; and
- Ramped access has been provided to the adjacent site at Dalguise.

The grounds of the first party appeal can be summarised as follows:

- This appeal has been prepared to address the single reason for refusal of the application advanced by DLRCC. It also takes the opportunity to address the internal departmental reports advanced by DLRCC Officers during the application's publicity period, although none have made their way into the single reason for refusal of the planning application.
- Although the application was devised, lodged, and determined in the context of the Dun Laoghaire Rathdown Council Development Plan 2016 to 2022, the appeal will be heard in the context of the Dun Laoghaire Rathdown Council Development Plan 2022 to 2028. Therefore, the refused planning application has been assessed again against the policies of the Development Plan 2022 to 2028 in this Appeal Statement. The applicant contends that the proposed development accords with the Development Plan (2022 to 2028).
- The development proposal seeks to strike a balance between the two parts of the site's planning history (the 72 no. apartments in 2 no. 4 storey blocks

approved by the Board under ABP Ref. ABP-305843-19 and the 122 no. apartments in 2 no. 4-7 storeys over basement refused by the Board under ABP Ref. ABP-308432-20) to provide a development of 96 no. units (-26 / +24) within two buildings up to 6 storeys in height (-1/ +2 storeys).

- It is worth noting that the footprint of the development - and therefore its depth and mass - is broadly the same as that approved in the 2019 permission (Reg. Ref. D19A/0378). Further to this, similar separation distances from boundaries/neighbouring properties are adopted to those proposed in the previously granted development.
- When assessed against the Development Plan 2022 to 2028, the development provides a nominal overprovision of car parking spaces to address the internal departmental comments (1 no. car sharing space and 2 no. visitor spaces) and a more considerable overprovision of cycle parking. If the inspector is minded to overturn DLRDCC's decision to refuse planning permission please be minded that the car and cycle parking provision could be readily reduced subject to reasonable planning condition to comply with the new requirements.
- Ample planning precedent exist in the area for development of similar height, scale, and layout, including:
  - ABP Ref. ABP-306949-20: - a development of 298 residential units granted at Dalguise House, Monkstown Road, Monkstown, Blackrock, Co. Dublin (immediately west of the subject site). This development was 5 to 9 stories in height and 6 stories above adjoining 2 storey residential properties on the same topographical level.<sup>1</sup>
  - ABP Ref. ABP-304249-19: - a development of 204 residential units granted at the Old School House, Eblana Avenue, Dun Laoghaire, Co. Dublin. This development was 4 to 6 stories in height and up to 4 stories above adjoining residential properties.
  - ABP Ref. ABP-303804-19: - a development of 294 residential units granted at St. Teresa's House/Centre and St. Teresa's Lodge (Protected Structures), Temple Hill, Monkstown, Blackrock, Co. Dublin. This

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<sup>1</sup> Please note, as discussed previously in Section 4.2.1, this grant of permission was subsequently quashed by an Order of the High Court.

development was 2 to 5 stories in height and up to 3 stories above adjoining 2 storey residential properties.

- ABP-304590-19 and ABP-307683-20: Permission granted by the Board within DLRCC at Walled Garden, Gort Mhuire, Dundrum, Dublin 14 and Green Acres Convent, Drumahill House and the Long Acre, Upper Kilmacud Road, Dundrum, Dublin 14, respectively, which relaxed the 22m separate distance rule under Section 8.2.3.3(iv). *“The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable”.*
- In the context of the first development management principle outlined in Section 3.1 of the Building Height Guidelines, the proposed development is located in the urban centre of Monkstown and meets national targets in terms of the reuse of brownfield land and infill development, thus protecting the open countryside from development while meeting the housing needs of the country.
- In the context of the second development management principle outlined in Section 3.1 of the Building Height Guidelines, the appeal statement demonstrates that the proposal complies with the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Dun Laoghaire Rathdown County Development Plan 2022-2028 in force at the time of determination of the appeal.
- In the context of the third development management principle outlined in Section 3.1 of the Building Height Guidelines, both the 2016-2022 and 2022-2028 Development Plans set out performance-based criteria in which to evaluate each new development when considering height. While these broadly align with national policy, we note the downward modifier in the Coastal Fringe Zone is unduly restrictive in requiring a 500m buffer from the coastal zone in considering development proposals of height, the vast majority of which would

have no impact beyond the immediate fringe. The heavy band of trees on site screen the proposed development from view.

- In the context of the first development management criteria outlined in Section 3.2 of the Building Height Guidelines, the site has excellent public transport connections and the proposed height is suitable given the 7.5 metre difference in level across the site/the boundary being enclosed by 17.5 metre high trees along the boundary.
- Dun Laoghaire Rathdown County Council acknowledged that the site is capable of accommodating height, as did the Planning Inspector in the context of the previous SHD application.
- In the context of the second development management criteria outlined in Section 3.2 of the Building Height Guidelines, the proposal makes a positive contribution to the urban neighbourhood giving due consideration to the green open spaces along the stream, as well as the treatment of boundary features to enclose the natural environment, and providing additional open space areas. The contemporary development adopts the same footprint as the approved 2019 scheme and incorporates high-quality finishes, which breakdown the overall mass of the development/make for an aesthetically pleasing building. The subject site is well connected to existing amenities/the Monkstown Village Centre and also provides a link to the Dalguise Site improving permeability in the wider area. The unit mix proposed responds to the high no. of 3-4 bedroom units featuring in the Dun Laoghaire Rathdown area.
- In the context of the third development management criteria outlined in Section 3.2 of the Building Height Guidelines, a Daylight and Sunlight Analysis Report accompanies the application which illustrates suitability.
- The proposal is consistent with Policy RES4 of the Dun Laoghaire Rathdown Council Development Plan 2016-2022 given its proximity to public transport services and the fact that the proposed development is located a policy compliant distance from adjoining properties in terms of amenity impacts.

- In the context of Section 8.2.3.3(iv) of the Dun Laoghaire Rathdown Council Development Plan 2016-2022, the proposed development does not breach the 22m rule with setbacks in excess of this provided from all opposing windows.
- In terms of the Building Height Strategy outlined at Appendix 9 of the Dun Laoghaire Rathdown Council Development Plan 2016-2022, the topography of the site, the site's connectivity regarding public transport and size constitutes upward modifiers in terms of this policy. In terms of downward modifiers, the downward modifier pertaining to adverse affect on residential living conditions is not applicable and it is argued that the downward modifier pertaining to the Coastal Fringe Area should not apply given the site's topography.
- The proposal is consistent with Policy Objective PHP18 of the Dun Laoghaire Rathdown Council Development Plan 2022-2028 given its proximity to public transport services and the fact that the proposed development is located a policy compliant distance from adjoining properties in terms of amenity impacts.
- In the context of Section 12.3.5.2 of the Dun Laoghaire Rathdown Council Development Plan 2022-2028, the proposed development does not breach the 22m rule with setbacks in excess of this provided from all opposing windows.
- In the context of Policy Objective PHP42, the building height strategy adopted by the 2022-2028 Development Plan is the same as that featuring in the 2016-2022 Development Plan. The previous assessment is therefore applicable in this regard.
- Housing mix was not listed as a refusal reason and should not therefore be a material factor in this planning application. That said, we note that the Development Plan 2022-2028 contains a new policy on residential size and mix in Section 12.3.3.1. A Material Contravention Statement accompanies the appeal in this regard. It is asked that regard be had to this should a material contravention be deemed to have occurred.
- The proposed development involves a 2 storey increase in height to the previously permitted development on site. The matters for consideration is the acceptability of two storeys above the existing permitted development.

## 6.2. Grounds of the Third-Party Appeal

A third party appeal has been submitted by Reid Associates, on behalf of Liam and Tove O'Flanagan. The main points raised can be summarised as follows:

- The reasons for refusal were not sufficiently comprehensive and there are grounds for further and more extensive reasons for refusal.
- There are no grounds or justification for the permission of increased height, scale, massing and density at the subject site from that previously approved (72 unit development). The applicant is pursuing a strategy of planning by accretion wherein having established a grant of permission on a backland restricted site, the approach has been to intensify development density beyond the capacity of the site to sustain such development.
- The proposed development imposes significant flood risk on neighbouring properties. The previous approval for the site was granted in advance of extensive modelling being carried out. The following additional reason for refusal regarding flood risk should be added: - *'the proposed development is located on a steeply sloping site and there is a need for a site-specific flood risk assessment of potential for flooding of neighbouring properties. In the absence of appropriate research and modelling of flood risk and given the limited capacity of the Richmond Green culvert it has not been demonstrated that the flood risk arising from the proposed development will not give rise to adverse flood risk on neighbouring properties contrary to the proper planning and sustainable development of the area. The basis of the NIS conclusion cannot be sustained in the light of the overland flooding from the proposed development which would give rise to possible hydro carbon content in flood waters along the roadway and which has not been adequately mitigated.'*
- There are fundamental defects in the application documentation submitted.
- There has been no improvement of the design of the proposed development from that refused permission, under Reg. Ref. ABP-308432-20. Instead, a monolithic approach to design is submitted and the apartment blocks have excessive depth and overall mass.

- The projecting balconies are affixed onto the facade and form a discordant feature/disrupt the rhythm of the facade. 15 balconies will face directly into our clients private open space c. 11 metre away. Further to this, the use of concrete at 5<sup>th</sup> and 6<sup>th</sup> floor level is ill considered.
- In terms of the building context, the form is unduly massive/high and will be visually over dominant with respect to existing housing and also in the context of the permitted housing at No. 81A Monkstown Road. The design results in the creation of massive retaining walls to the side and rear boundaries of the site which are necessary to accommodate the size of the blocks.
- While the existing retaining walls are shown as retained, the level of excavation below the foundations of these walls to provide for the basement car park pose questions on the need for further retaining structures.
- The design results in radical intervention to the existing site topography impacting on existing trees.
- The following additional reason for refusal regarding the design of the development should be added: - *'the proposed design provides for an excessive depth and height and mass of development on a restricted backland site. The proposed design of the development fails to provide for visual coherence or integration of the development into the site landscape context. The proposed design is considered substandard and not in keeping with the character of the Monkstown Village, Architectural Conservation Area and is unacceptably dominant over the adjoining sites to the north, south and east.'*
- The following additional reason for refusal regarding resultant tree loss and ecological impacts should be added: - *'the proposed development would result in the loss of a significant number of trees with possible adverse impacts on the heronry located in T23, T24 and T25, which trees host the heronry on site. The proposed development would result in unacceptable impacts on the sylvan character of the area and would adversely impact the potential survival of the heronry.'*

### 6.3. Appellant Responses

#### 6.3.1. *First Party Response to Third Party Appeal*

The applicant's response to the third party appeal can be summarised as follows:

- It is worth noting that the footprint of the development - and therefore its depth and mass - is broadly the same as that approved in the 2019 permission (Reg. Ref. D19A/0378). Further to this, similar separation distances from boundaries/neighbouring properties are adopted to those proposed in the previously granted development.
- The proposed development does not breach the 22 metre rule (regarding separation between blocks) referenced in Section 8.2.3.3(iv) of the Dun Laoghaire Rathdown County Development Plan 2016 to 2022 and Section 12.3.5.2 of the newly adopted Dun Laoghaire Rathdown County Development Plan (2016 to 2022). There is one instance where the development is less than 22m from its neighbouring property - being 15.5m to the east of the permitted development at Dalguise House. However, no opposing windows are proposed as part of the Dalguise development at this location (Block C, 7 storeys, 27 units) and a significant bank of trees exist between the gable ends of each proposed building (the development and Dalguise House). As a consequence, this policy does not apply to the development proposal.
- In relation to potential of overshadowing, the proposed apartment blocks are located to the west, south and north of the existing residential developments that directly bound the site. A Daylight & Sunlight Analysis Report has been submitted with the application to demonstrate the scheme's credentials in this regard.
- The appellant suggests that the proposed development is to take place on a limited restricted back land infill site, it is argued that such infill development is consistent with Policy RES 4. As previously demonstrated, the development proposal provides the unique opportunity to densify an existing, centrally located brownfield site to retain and improve residential amenities in established residential communities. The subject site is located less than 500m from the Salthill/Monkstown Dart station and several high-frequency bus stops



within close vicinity of the subject site. In respect of residential amenity, the development is located a policy compliant distance from adjoining residential properties and would lead to no impacts in terms of overlooking or overshadowing. It is therefore considered to be a policy compliant development in respect of this policy.

- The appellant secondly contends that: - *“the proposed design of the development fails to provide for visual coherence or integration of the development into the site landscape context.”* The appeal is submitted on the foot of an extant permission for the site (ABP Ref. ABP- 305843-19) for a 2 no. 4 storey apartment blocks. The current application proposes an additional two storeys in height. Therefore, the matter for consideration is the acceptability of two storeys above the existing permitted development.
- There is a significant change in level across the site from north to south, a 7.19 metre change in level, the equivalent of 2.5 storeys. As a result of this level difference, the development is typically 1 to 2 storeys above its neighbouring properties. To the north, the development is 5-storeys above No. 81A Monkstown Road (single storey bungalow), however, significant separation distances are provided, some 37m in distance and beyond trees of significant height (17.5m, 7 storeys) effectively screening the scheme. This being the case, it is considered that a greater height is justified in this location. On this basis, it is considered that the development adequately integrates into the surrounding townscape and landscape.
- The appellant thirdly contends that: - *“the proposed design is considered substandard and not in keeping with the character of the Monkstown Village, Architectural Conservation and is unacceptably dominant over the adjoining sites to the north, south and east.”* As set out in the photomontages (03-02-2020), there is no visibility between the Architectural Conservation Area and the site. In terms of impact on adjoining properties, the development is provided in two regular blocks which are largely on the same footprint as the approved scheme 2019. These are designed to provide ample separation distances from residential and environmental receptors (trees, water, and ecology).

- The built form of the development then provides high-quality finishes in a contemporary design, presenting the opportunity for an aesthetically pleasing development. The use of material and finishes to the elevations are designed to 'break down' the overall mass of the proposed development.
- The appellant suggests that the subject development has a balcony within c.11m from the boundary overlooking the permitted development at 81A Monkstown Road/has an imposing wall of windows and balconies within 14m. The footprint of the development is broadly the same as that approved by the 2019 planning application (ABP-305843-19). As outlined above, the development does not breach the 22m rule.
- Section 34(3a) of the Planning and Development Act 2000 confirm that in amending a planning permission (in part or full) or 'on the foot of' an existing planning permission, the planning authority shall be restricted in its determination to considering the modifications proposed. Therefore, while we acknowledge the appellant's contention that the scheme should be considered as a standalone application, the legislation does confirm that the application should be rightly considered in light of the extant planning permission which remains in force. It is not, therefore, considered that this ground for objection carries any material weight and should therefore be disregarded.
- The appellant suggests that the subject site is susceptible to significant flood risk. A flood risk assessment was carried out in relation to the subject site for both the original application and the appeal, and it was established from review of all available flood data for the site and the surrounding area that the likelihood of floodwater entering the site would be low. Historical flood events have not entered the subject site and no current flood mapping predicts the occurrence of any flooding on this site, as a result it is the professional opinion of the project engineers, Lohan and Donnelly, that the site will not be at risk of flooding as a result of the proposed development. As part of the First Party Appeal submitted against the refusal of the planning permission, surface water management has been considered again in the following way: a revised engineering services report was included as part of this appeal, which considers the request for a lower surface water outfall discharge rate, clarifies the attenuation provision in

terms of method/volume and elaborates on the proposed maintenance approach and access arrangements for the green roof systems proposed as part of the development.

- The Construction and Environmental Management Plan confirms that/outlines how trees will be protected during construction. It is considered that the impact of the development on trees can be adequately managed through appropriate mitigation during the construction and operation stages of the development.
- The appellant suggests that there is a degree of uncertainty surrounding mitigation measures to retain the heronry present on the subject site. It is the considered opinion of Downey Planning that this was addressed through previous submissions which included a Bat and Heronry commentary and reports. The Construction and Environmental Management Plan outlines how the Heronry will be protected during construction. It is considered that the impact of the development on the heronry can be adequately managed through appropriate mitigation measures, as advised by the project ecologist, Altermar. It is also important to stress that DLRCC's ecologist stated no objection to the proposal, subject to compliance with a number of recommended conditions.

#### **6.3.2. *Third Party Response to First Party Appeal***

The third party's response to the first party appeal can be summarised as follows:

- The significant new material and revised plans/reports submitted with the first party appeal acknowledges the fundamental deficiencies in the planning application.
- As previously stated in the third party appeal lodged, there were fundamental defects in the application documentation submitted. The material now submitted is essentially a new application which was not considered by the Planning Authority and did not form the basis of their decision. Accordingly, the Board has no jurisdiction to deal with the appeal in the manner submitted by the developer/applicant and the Board cannot, as a matter of jurisdiction, permit the development based on further information not sought by the Planning Authority comprising materially different plans and particulars. There is no statutory provision to allow the applicant to submit further information of their own volition and this further information does not form part of the ground of

appeal. Submission in this manner excludes third parties from consideration/participation, contrary to the Aarhus Convention requirements.

- As the revised material is in response to internal department reports as opposed to forming the applicant's grounds of appeal, the applicant's appeal should be dismissed.
- There are no grounds or justification for the permission of increased height, scale, massing and density at the subject site from that previously approved (72-unit development). The development potential of the subject site has already been realised by the extant permission.
- The application fails to show the site layout of the development approved at No. 81A Monkstown Road, under ABP Ref. ABP-307151-20, contrary to Planning Regulation requirements. The proposed development would negatively affect the residential amenity of this approved development as well as its value.
- The Material Contravention Statement accompanying the first party appeal fails to acknowledge that the proposed removal of 53 no. trees also materially contravenes the Development Plan. The Board has no jurisdiction to grant permission for development which materially contravenes the development plan where there has been no public notice for the material contravention of the Development Plan.
- Further to this, the proposed tree removal will have also have negative impacts on biodiversity and wildlife. In particular, there do not appear to be specific protection measures in place to secure protection of the Heronry and the impact of construction has not been adequately addressed. Also, the embodied carbon loss in the 53 no. trees to be removed is not even considered in the application or landscape report. The following additional reason for refusal regarding resultant loss of embodied carbon should be added: - 'the existing trees on the site act like a carbon sink and carbon sequestration is a significant element of mitigation to reduce carbon emissions. The loss of 53 trees as a result of a single development would materially undermine the overarching strategic goal of the development plan for the transition of the County to a climate resilient carbon society.'

- The key issues of height, bulk, scale, massing and layout which resulted in the reason for refusal have not informed any of the changes to the plans.
- The subject site is a restricted backland infill site surrounded by established neighbouring properties on all sides, with a difficult topography, site level differences and sensitive sylvan context.
- The true density of the site would be of the order of 184 units per hectare based on the residential site of 0.52Ha (omitting access road, embankments and planted areas). This density is unacceptable which is reflected in the unsuitable design, excessive scale/massing and height of the proposed development.
- The appeal is misleading/confusing and deliberately obfuscates the intent to run the appeal based on an entirely different set of plans.
- The precedents referenced in the appeal are largely irrelevant to the subject application/site due to the differing contexts and site sizes involved. The Board has set a precedent in the recent decision at Sallynoggin (under ABP Ref. ABP-312321-21) which found that there was no justification for increasing the previously approved height/density on site.
- In terms of height, downward modifiers as set out in the height strategy are applicable. Also the site is within the coastal fringe and bounding the Monkstown ACA where downward modifiers to height apply.
- In the context of the newly adopted Dun Laoghaire Rathdown County Development Plan 2022-2028, the proposal is contrary to childcare facility requirements specified under Policy PHP6 and the housing unit mix specified in Policy PHP27, as well as Policy EI16 and EI22 regarding SuDS and flooding, respectively.

#### **6.4. Planning Authority Response**

- Notwithstanding Dun Laoghaire Rathdown County Council's new County Development Plan, 2022-2028, and noting also the Applicant's agent stated revised/alternative appeal response proposals (e.g. inclusion of 8 no. 3-bedroomed apartment units, and number of (apartment) units proposed changed, from 96 no. to 92 no.); the Planning Authority's position has not

changed with regards to concerns, and reason(s) for refusal stated for the development(s) proposed on the subject site.

## **6.5. Observations**

6.5.1. Observations on the first party appeal were lodged from the following parties:

- Brian and Linda Kelly;
- Monkstown Road Residents Association;
- James C. Barry;
- Bairbre and Robert Stewart;
- Douglas and Geraldine Barry;
- Michael Begley;
- Marion O'Grady-Sommer;
- Belgrave Square Residents Association;
- Catherine Walsh and Christine Nelson;
- Palma Management Co. Ltd;
- Nessian and Carol Kelly;
- Eve Roche and John Palmer;
- Valerie and Christopher Moore;
- Tony and Carmel Sheppard;
- Bernard and Rosaleen Duggan;
- John and Denise McEvoy; and
- David and Lucy Tyndall.

6.5.2. The issues raised therein can be summarised as follows:

- Proposal has not addressed the previous refusal reasons.
- Pedestrian/cyclist safety during construction and operational phases.
- Increased traffic/safety concerns along Richmond Green and at intersection with Carrickbrennan Road.

- Application invalid as it includes development outside of the red line boundary/the proposed footpath proposals along the access road are on lands not in the ownership of the applicant.
- Inadequate emergency and fire services access.
- Inadequate parking, during construction and operational phases.
- Overdevelopment/excessive density, scale and height.
- Impact on residential amenity/loss of privacy.
- Excessive scale/mass.
- Lack of architectural quality.
- Excessive amount of single aspect apartments proposed.
- Poor quality of open space provided to serve apartments.
- Potential impacts on houses at Richmond Park from excavation needed to accommodate the basement and construction of development.
- Sewerage/drainage system capacity.
- Impact on visual amenity/character of the area.
- Depreciation in value of surrounding properties.
- The Management Company associated with Richmond Green residential development have legal rights and obligations over the access road and own the footpath/some of the common land/some front garden areas.
- Tree removal and impacts on birds/wildlife resulting/surveys carried out re wildlife and birds on site are old.
- Potential flood impacts.
- Mix of units unsuitable.
- Lack of consultation with residents in the surrounding area.
- The application material submitted is lacking in detail/includes out-dated photographs of the area.
- Contrary to development plan policy and the Building Height Guidelines.

- Project will be financially unviable in the predicted worldwide recession/sale to vulture fund will occur.

## 6.6. Further Responses

None.

## 7.0 Assessment

As part of the grounds of appeal, the appellant submitted additional information and revised plans in response to the Planning Authority's reasons for refusal of planning permission and the items raised by the Planning Authority's internal departments in their commentary on the application. This additional information/revised plans included the following:

- A revised Traffic and Transportation Assessment, prepared by Martin Rodgers Consulting Ltd;
- A revised Outline Construction Management Plan Report, prepared by Lohan & Donnelly Consulting Engineers;
- A revised Proposed Engineering Services Report, prepared by Lohan & Donnelly Consulting Engineers;
- A letter of intent from Go-Car; and
- Drawings Nos. 243-042-PL-610-REV-A, 243-042-PL-631-REV-A, PL-100 and PL-004, prepared by Downey Planning and Architecture;
- Drawings Nos. C01 Rev.2, C02 Rev.2, C03 Rev.2, C04 Rev.2, C08 Rev.2, C09 Rev.2 and Predicted Flood Extents Stradbroke Stream Cross-Section Sheets 1-14 (inclusive), prepared by Lohan & Donnelly Consulting Engineers.

These revised plans submitted include the following amendments:

- An additional car sharing space and 2 no. EV charging spaces have been added to the basement level car parking provision;
- The visibility splay along Kenilworth Way has been increased (from 14 metres to 20 metres);



- A stop sign and dwell area has been added to the basement ramp;
- The grass crete has been revised to provide a resin footpath and a bollard added to restrict vehicular access; and
- Ramped access has been provided to the adjacent site at Dalguise.

The applicants ask that they be read in conjunction with the original reports/plans submitted with the planning application. It is noted that the revised plans submitted with the appeal introduce no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Dun Laoghaire Rathdown County Council on 31<sup>st</sup> January 2022 as amended by further plans and particulars received by the Board on 21<sup>st</sup> April 2022.

Further to the above, the appellant has submitted a Material Contravention Statement and revised drawings (Drawings Nos. AP-101, AP-102 and AP-103, prepared by Downey Planning and Architecture); in light of the adoption of the Dún Laoghaire Rathdown County Development Plan 2022-2028. These revised plans included the following amendments: - a 4 no. unit reduction in the no. of apartments proposed (reduced from 96 no. to 92 no.); and alterations to the unit mix proposed (from 48 no. 1-bed units and 48 no. 2-bed units to 44 no. 1-bed units, 40 no. 2-bed units and 8 no. 3-bed units). The Applicants ask that the internal layout as originally lodged with the Dun Laoghaire Rathdown County Council on 31<sup>st</sup> January 2022 form the basis for the Board's assessment in the first instance. However, in the event that the Board are not satisfied with the unit mix lodged originally with the Planning Authority, the Applicant asks that the Board consider this revised proposal received by the Board on 21<sup>st</sup> April 2022. It is noted that these revised plans/statement submitted with the appeal introduce a new issue regarding unit mix. I am satisfied that third parties and the Planning Authority have been given appropriate opportunity to comment on this matter and many third parties have done so in their submissions. Accordingly, in the context of unit mix I will consider both the proposed development as originally lodged and the revised proposal accompanying the appeal as part of my assessment below.

Before turning my attention to my assessment of the proposed development, I consider it first prudent to address the third party appellants contention that the applicant's appeal should be dismissed, as the additional/revised material

accompanying the first party appeal is in response to internal department reports as opposed to forming the applicant's grounds of appeal/responding to the Planning Authority's reason for refusal. Section 127(4)(a) of the Planning and Development Act, 2000 (as amended) states that "*an appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate*". I am satisfied that the additional/revised material accompanying the first party appeal is consistent with this provision of the Act and its submission does not merit dismissal of the appeal. The third party appellant also contends that the material submitted with the first party appeal comprises a new application which was not considered by the Planning Authority and did not form the basis of their decision. Accordingly, the Board has no jurisdiction to deal with the appeal in the manner submitted by the developer/applicant. Upon review of the material submitted, I am satisfied that the material accompanying the first party appeal is not so different to the application as originally lodged to constitute a 'new application' as suggested.

I now resume my assessment of the proposed development. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Principle of Development
- Density and Housing Mix
- Design, Layout, Height and Visual Amenity
- Residential Amenity of Adjoining Properties
- Residential Amenity of Proposed Development
- Access, Traffic and Parking
- Open Space and Tree Conservation
- Ecology/Biodiversity/Wildlife
- Built Heritage
- Drainage and Flood Risk
- Other Matters

As previously discussed, the subject application was originally assessed having regard to the Dún Laoghaire Rathdown County Development Plan 2016-2022. This has subsequently expired and in the intervening period, the Dún Laoghaire Rathdown County Development Plan 2022-2028 has been adopted by the elected members and came into effect on the 21<sup>st</sup> April 2022, save for a no. of sections (please refer to Section 5.0 for further detail). In light of this, the subject application will be assessed having regard to the Dún Laoghaire Rathdown County Development Plan 2022-2028.

## **7.1. Principle of Development**

7.1.1. The appeal site is located within an established urban area within easy walking distance of Salthill and Monkstown DART Station/a no. of Dublin Bus routes and is bound by residential properties on all sides. Table 13.1.2 of the Dún Laoghaire Rathdown County Development Plan 2022-2028 identifies 'residential' as permitted in principle under zoning Objective A. It is noted that the proposed apartment blocks are contained entirely within the Objective A zoned land and do not affect the Objective F zoned land on site.

7.1.2. The proposed development consists of 96 no. one and two apartments provided in two blocks. The principle of a residential development on these lands was assessed and deemed acceptable by the Board under ABP Ref. ABP-301533-18 and ABP Ref. ABP-305843-19 which granted permission for the demolition of all existing structure and the construction of 56 no. and 72 no. apartments in two blocks, respectively. The current proposal before the Board is for 96 no. apartments in two blocks, an increase of 24 no. apartments and 2 no. additional floors. Given that An Bord Pleanála has recently granted permission for apartments on this site, it is my opinion that the principle of apartment development has been established on the subject lands.

## **7.2. Density and Housing Mix**

### *Density*

7.2.1. The subject application proposes 96 no. apartments on an overall landholding of 0.95ha. In terms of density, the third party appellants argue that in calculating the net residential density the access road, embankments and planted areas should be omitted in terms of site area. In terms of resultant density, this would leave an available developable area of 0.52Ha equating to a density of 184 units per hectare. While I

would concur in the context of the omission of the access road, planted buffer area along the northern boundary and embankment area along the southern boundary (having regard to Appendix A of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)), based on my calculations I consider the available developable area to be c. 0.565Ha, equating to a net density of 170 units per hectare.

7.2.2. The Planning Authority, in the Planners Report, notes that while the site is appropriate for a higher density residential development, serious concerns remain with regard to the overall scale, massing and form of the proposed development, and how it relates to its setting and surrounding context. The third-party appellants contend that in increasing the density from that previously approved (under the 72 unit development approval), the applicant is intensifying development density beyond the capacity of the site to sustain such development. To the contrary, the applicant contends that the proposed development will achieve a level of development that achieves the density mandated by Government policy, while retaining appropriate levels of residential amenity, and is therefore consistent with Policy Objective PHP18 of the Dun Laoghaire Rathdown Council Development Plan 2022-2028.

7.2.3. The National Planning Framework recommends compact and sustainable towns/cities, brownfield development and densification of urban sites. More specifically, National Policy Objective 35 contained therein seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. The Sustainable Residential Development in Urban Areas (2009) encourages minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, within public transport corridors. This sentiment is echoed in the Dun Laoghaire Rathdown Development Plan, 2022-2028, with Section 4.3.1 and Policy Objective PHP18 promoting sustainable densities particularly in public transport corridors and consolidation/re-intensification of infill/brownfield sites. In this regard, the appeal site is currently well served by public transport as it is proximate to the Salthill and

Monkstown DART station (located 400 metres to the north-east) and Bus Stop No. 3073 on Monkstown Road (located 100 metres away) which is served by Bus Routes No. 7, 7A, 7D and 703 (Aircoach). Moving forward, the Bus Connects Network Spine/Branch Route B3, Orbital Route S8 and City Bound Route 98 will run along Monkstown Road. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, (the Apartment Guidelines), the site would be categorised as a 'Central and/or Accessible Urban Location'. Such locations are deemed to be suitable for small-to-large-scale (will vary subject to location) and higher density development that may wholly comprise apartments. The subject site is considered appropriate for increased residential densities consistent with the above guidance.

7.2.4. The proposed density of 170 units per hectare is significantly higher than existing and permitted development in the area. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, the provision of a higher density residential development on the subject site is considered acceptable in principle consistent with the provisions of the Development Plan and Government policy seeking to increase densities and, thereby, deliver compact urban growth. However, the density proposed is considered to be excessive and the proposed development to constitute overdevelopment in this instance as it fails to strike a balance between the protection of existing residential amenities (as will be discussed thoroughly in the subsequent sections of this report) and achieving of densification/intensification of residential development on site. In this regard, I find the proposed development to be contrary to Policy Objectives PHP18 and PHP19, included in Section 4.3.1 of the recently adopted Development Plan. Therefore, it is recommended that planning permission be refused in this instance.

#### Housing Mix

7.2.5. It is proposed to provide 96 no. apartments arranged in 2 blocks. The unit mix, as originally lodged, comprises 48 no. (50%) 1-bed apartments and 48 no. (50%) 2-bed apartments. Both the third party appellants and third party observers query the suitability of the unit mix proposed, the third party appellants arguing that the housing unit mix specified is contrary to Policy PHP27 included in the Dun Laoghaire Rathdown

County Development Plan 2022-2028. Although, not forming part of the Planning Authority's refusal reason, the Planning Authority did raise concerns that the 100% 1-2 bedroom unit mix proposed is not broad enough. Table 12.1 states that apartment developments may include up to 80% studio, one and two bed units; no more than 30% of the overall development should comprise a combination of one bed and studio units; and that a minimum of 20% should be 3+ bedroom units. The proposed scheme incorporates 100% 1-bed and 2-bed units, of these 50% comprise of 1-bed units and the scheme is devoid of 3+ bed units. Therefore, the proposed unit mix does not comply with the quantum's set out in Table 12.1.

7.2.6. The applicant has addressed the proposed unit mix in the Material Contravention Statement which accompanies the appeal. This document provides an account of the area and the scheme in a bid to justify the unit mix, more specifically a brief overview of the demographic profile of the catchment area of the proposed development is provided and compared to housing provision in the area to identify existing and emerging housing demand in the area. Having regard to the fact that 60% of the immediately surrounding area comprises of 1 and 2-person households, the average household is 2.4 persons per house and there is a higher percentage of larger dwellings in excess of six rooms/a greater number of 3 to 4 bed units/a considerably smaller no. of one-bed units in Dun Laoghaire Rathdown than elsewhere in Dublin, the applicant contends that the unit mix proposed is appropriate in this instance. It is also argued that the majority of planning applications in the immediately surrounding area were for 1 and 2 bedroom dwellings, which is reflective of the market demand for the form of housing.

7.2.7. Should the Board consider the proposed development to materially contravene Section 12.3.3.1 of the Dun Laoghaire Rathdown County Development Plan 2022-2028, the applicant asks that the Board grant permission for the proposed development as lodged having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Plan, 2000 (as amended). In the context of the 4 no. considerations set out under Section 37(2)(b), they argue that the proposed development is of strategic importance being just below the Strategic Housing Development threshold of 100 no. dwellings; the requirement for 3-bed units outlined in Section 12.3.3.1 is in conflict with the demand/need for housing in the area; given the recent implementation of the new Development Plan the precedents discussed are

indicative of the pattern of development in the area/positively support the proposed material contravention; and the proposed development is justified having regard to the National Planning Policies/Section 28 Guidelines (including Housing for All (2020), Rebuilding Ireland, An Action Plan for Housing and Homelessness (2016), Project Ireland 2040 – National Planning framework (2018), and Sustainable Urban Housing: Design for New Apartments (December 2020)) and the Regional Spatial and Economic Strategy 2019-2031. In the context of the Apartment Guidelines, particular reference is made to the unit mix being in accordance with the provisions of Specific Planning Policy Requirement (SPPR) 1 which states that apartment developments may include up to 50% 1-bed or studio type units (with no more than 20 – 25% of the total proposed development as studio's) and there shall be no minimum requirement for apartments with three or more bedrooms.

7.2.8. The Dun Laoghaire Rathdown County Development Plan 2022-2028 has been adopted in the intervening period since this application was determined and the first party appeal was lodged. Table 12.1 of the current development plan sets out an apartment mix requirement for schemes of 50+ units in existing built-up areas. A policy/requirement pertaining to unit mix featured in the previous Dun Laoghaire Rathdown County Development Plan 2016-2022, at Policy RES7: Overall Housing Mix and in Section 8.2.3.3 more specifically. However, the policy/requirement pertaining to unit mix featuring in the current development plan is informed by an evidence based, targeted Housing Need and Demand Assessment (HNDA) prepared as part of the development plan process. Taking into account the high number of apartments being proposed and delivered in the County and the predominance of schemes with one and two bed apartments, to create sustainable neighbourhoods, the HNDA recommends provision of a policy objective in the Plan to provide a mix of units type by size in apartment schemes as adopted in Section 12.3.3.1 of the Development Plan (in Table 12.1 more specifically). While it is acknowledged that the proposed unit mix is in accordance with the provisions of SPPR1, it is important to note that SPPR1 also states that *'statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)'*. In the

context of the Dun Laoghaire Rathdown County Development Plan 2022-2028, an evidence-based Housing Need and Demand Assessment has been prepared.

7.2.9. Upon review of the unit mix proposed, I consider that the proposed development would fall considerably short of meeting the identified housing needs of the area. Further to this, I am of the view that that the proposed development's contravention of the apartment mix requirements constitutes a material contravention of the Dun Laoghaire Rathdown County Development Plan 2022-2028. As discussed previously, the Material Contravention Statement accompanying the appeal endeavoured to provide some justification for the proposed development's unit mix/resultant material contravention. However, upon review, I am not satisfied that the applicant has put forward robust enough evidence regarding the proposed development's compliance with the HNDA to justify a deviation from the requirements outlined in Table 12.1. Instead, the Material Contravention Statement submitted relies heavily on the criteria set out in the context of Section 37(2)(b) of the Planning and Development Plan, 2000 (as amended) in justifying the proposed unit mix.

7.2.10. Section 37(2) of the Planning and Development Plan, 2000 (as amended), reads as follows:

*37. (2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*

*(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, or*

*(iii) permission for the proposed development should be granted having regard to 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, or*

*(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.*

*(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision the main reasons and considerations for contravening materially the development plan.*

Given the subject application was not refused on the grounds that the proposed development materially contravenes the Development Plan in regard to unit mix, in my view it is not open to the Board to invoke Section 37(2)(a) of the of the Planning and Development Act, 2000 (as amended), and grant permission for the subject proposal. Having regard to the foregoing, it is my recommendation that permission be refused in this instance.

7.2.11. In the event that the Board are not satisfied with the unit mix originally lodged with the Planning Authority, the Applicant has asked that the Board consider the revised plans (Drawings Nos. AP-101, AP-102 and AP-103, prepared by Downey Planning and Architecture) submitted with the first party appeal on 21<sup>st</sup> April 2022. These revised plans included the following amendments: - a 4 no. unit reduction in the no. of apartments proposed (reduced from 96 no. to 92 no.); and alterations to the unit mix proposed (from 48 no. 1-bed units and 48 no. 2-bed units to 44 no. 1-bed units, 40 no. 2-bed units and 8 no. 3-bed units). The proposed amendments do not result in a scheme with the minimum recommended target of a 20% of 3+bed units as set out in Table 12.1. The proposed amendments would provide a quantum of 3-bed units, which equates to a total of 8.7% of the overall scheme, without significantly altering the design of the scheme. This continues to fall considerably short of the development plan requirements and it is my view that the proposed unit mix featuring in the revised proposal submitted would be contrary to Policy Objective PHP27 which aims to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided

throughout the County in accordance with the provisions of the HNDA. Therefore, the revised plans are not considered to have appropriately addressed the unit mix issue/the material contravention of the current Development Plan.

7.2.12. I acknowledge that the required unit mix could be achieved by way of a condition requiring the amalgamation of units, however, having regard to the proportion of units that would need to be amended such a condition would result in significant alterations to the design/layout of the scheme. This is not considered appropriate in this instance.

### **7.3. Design, Layout, Height and Visual Amenity**

7.3.1. At present, the subject site comprises a single storey nursing home building and associated parking/hardstanding areas. Under the extant permission for the site (ABP Ref. ABP-305843-19), permission was granted for a maximum of 4 storeys (extending to a height of 12.95 metres) across the proposed two apartment blocks with differing footprints. The current application proposes two identical six storey blocks, extending to a height of 19.25 metres. The proposed blocks adopt a similar positioning to those previously approved on the sites and a similar separation distance is provided between the two blocks. In the context of setbacks from boundaries, the proposed blocks are positioned closer to the site's southern boundary and further away from the site's northern and western boundaries, with a similar separation distance from the eastern boundary adopted.

7.3.2. The site is surrounded by existing residential developments. To the north, are Nos. 81A Monkstown Road, 87 Monkstown Road and 95 Monkstown Road, which comprise of a 7 no. unit residential development currently under construction, a double storey detached dwelling, and a double storey residential centre, respectively. To the south (westernmost part), are Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park which comprises of a row of two-storey semi-detached and detached dwellings. The site's southern boundary (easternmost part) is flanked by a pedestrian lane that links the cul-de-sac with Richmond Park. To the east, on the opposite side of the access road and public right of way flanking the eastern/southern boundary in part are Alma Place, Ronard and No. 2 Richmond Park Drive which comprise of a terrace of double storey dwellings, a 3-storey detached house and a 3-storey detached house, respectively.

To the west, is part of the grounds/gardens associated with Dalguise House, a double storey dwelling which is a Protected Structure.

- 7.3.3. The Planning Authority's first refusal reason states that the proposed development, by reason of its height, bulk, scale, massing and layout, fails to have due regard to its surrounding context, would have a detrimental and negative impact on the surrounding amenities and character of the area and would be seriously injurious to the residential amenities of properties located within its immediate vicinity and would be visually overbearing. They therefore deem that the proposed development would be contrary to policies and objectives of the current County Development Plan, including Policy RES4, Section 8.2.3.3(iv) and Appendix 9 (Building Height Strategy) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). A number of observations have raised concerns relating to the suitability of the height and scale of the proposed development. They contend that the proposal comprises overdevelopment of the subject site.
- 7.3.4. Although the Dun Laoghaire Rathdown County Development Plan 2016-2022 has expired in the intervening period since this application was determined, I note a similar policy pertaining to residential density and infill development (Policy Objective PHP18: Residential Density and Infill Development) features in the recently adopted Dun Laoghaire Rathdown County Development Plan 2022-2028, at Section 4.3.1.1 more specifically. Further to this, the recently adopted Development Plan also includes a building height strategy at Appendix 5. However, there are some differences to the building height strategy previously featuring in the Dun Laoghaire Rathdown County Development Plan 2016-2022 (at Appendix 9). Of note, is the removal of the upward and downward modifiers outlined in the context of consideration of taller buildings and their replacement with policy objective reflecting the requirements of national planning policies, in particular the Building Height Guidelines 2018. Further to this, the Coastal Fringe is no longer specifically referenced as a height reducing factor.
- 7.3.5. The first party appellant argues that the height of the proposed development is not excessively high having regard to the topography of the site relative to its immediate surrounds and is appropriate having regard to the precedents established by the Dalguise House permission (ABP Ref. ABP-306949-20), the Old School House permission (ABP Ref. ABP-304249-19) and the St. Teresa's House/Centre and St.

Teresa's Lodge permission (ABP Ref. ABP-303804-19). Upon review of the precedents detailed, it would appear that the context/site involved at the Old School House site (considered in application ABP Ref. ABP-304249-19) and the St. Teresa's House/Centre and St. Teresa's Lodge site (considered in application ABP Ref. ABP-303804-19) differ greatly from that involved in the subject application. The Old School House site being located within the Dun Laoghaire Town Centre and the St. Teresa's House/Centre and St. Teresa's Lodge site comprising a much larger parcel of land at 4.56 ha. With regards to the Dalguise House permission, I note the decision of the Board was subsequently quashed by the High Court. Irrespective of this, each planning application is considered on its individual merits and the Planning Authority/Board are not bound by previous decisions pertaining to neighbouring or similar sites/situations. The subject application requires consideration on its individual merits.

7.3.6. Section 4.4.1 of the recently adopted Development Plan addresses quality design & placemaking principles, including Policy Objective PHP35: Healthy Placemaking which seeks to ensure that development is of high-quality design that assists in promoting healthy placemaking. The Development Plan sets out the key principles in assessing compliance with this policy including, proper consideration of context, connectivity, layout, public realm, wayfinding and detailed design. Policy Objective PHP44: Design Statements of the Development Plan requires a design statement to be submitted with an application for development of this nature and scale, which the applicant has adhered to.

7.3.7. As outlined above, the applicant is proposing to construct 2 no. 6 storey over part basement blocks on site, with communal space for residents provided centrally between the two blocks and landscaped areas maintained along the north, south and western boundaries. The proposed development extends to a maximum height of 19.25 metres and the 2 no. blocks have a combined length of c. 73.2 metres adjacent to the northern and southern boundaries, Block A spans for a length of c. 22 metres adjacent to the eastern boundary and Block B spans for a length of c. 22 metres adjacent to the western boundary. The proposed development adopts setbacks of between 18.75 and 23.975 metres from the northern boundary, 13 and 20.927 metres from the southern boundary, 20.6 and 37.3 metres from the eastern boundary and 5.6 and 11.8 metres from the western boundary, with limited setbacks adopted at upper

floor level. A minimum separation distance of 22 metres is provided between Blocks A and B, with the proposed communal amenity space featuring in the interim space between these two blocks. I consider the proposed development, by virtue of the layout, bulk, height and massing would be out of character with the site context and would constitute overdevelopment of the subject site. The CGIs/photomontages accompanying the application, prepared by Digital Dimensions, are illustrative of this fact.

7.3.8. In terms of building height, the existing building on site extends to a maximum height of 7.155 metres according to the details submitted with the application. The proposed building would be considerably taller than the surrounding existing buildings in the immediate area which consist of two storey semi-detached and detached houses, in particular Nos. 81A Monkstown Road, 87 Monkstown Road and 95 Monkstown Road which sit lower than the subject site due to the topography of the surrounding area. While I appreciate permission has been granted for a taller 4-storey building (extending to 12.95 metres) on the subject site, under ABP Ref. ABP-305843-19, at 19.25 metres the subject proposal represents a considerable increase in building height from that previously permitted.

7.3.9. From a local planning policy perspective, Policy Objective PHP42 requires adherence to the recommendations and guidance within the Building Height Strategy for the county, which is included as Appendix 5 to the recently adopted Development Plan. The subject site falls within a suitable area well served by public transport link as per the Building Height Strategy. The strategy, more specifically Policy Objective BHS 1, supports the consideration of increased heights and also consideration of taller buildings where appropriate in the Major Town Centres and 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 prevailing building height in the surrounding area and taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area. The proposed development (at 6 storeys) is inconsistent with this aspect of the Building Height Strategy in that it is more than 2 storeys taller than the prevailing height for the area. Further to this, the proposed building height is also contrary to the second aspect of

Policy Objective BHS 1. As discussed above, I consider that the development is inconsistent with the established character of the area and, as will be discussed in subsequent sections, the proposed development will have an adverse impact on residential and visual amenities. While the site size/location would potentially offer the opportunity for greater building heights, greater care is needed in relation to the proposed development's impact on neighbourhood character/residential and visual amenities to achieve the realisation of such potential.

7.3.10. In terms of national policy, I have assessed the development against the Building Height Guidelines 2018, which provides a detailed national planning policy approach to the assessment of building height in urban areas. It states that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. I have considered these guidelines alongside other relevant national planning policy standards, including national policy in Project Ireland 2040 National Planning Framework, particularly Objective 13 concerning performance criteria for building height, and Objective 35 concerning increased residential density in settlements.

7.3.11. The Building Heights Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under Section 3.2 of these Section 28 Guidelines have informed my assessment of the application. SPPR 3(a) of the Building Heights Guidelines states that where a Planning Authority is satisfied that a development complies with the criteria under Section 3.2, then a development may be approved, even where specific objectives of the relevant Development Plan may indicate otherwise. In principle, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR 3(a), which refers to the criteria in Section 3.2 of the Building Heights Guidelines. Section 3.2 of the Building Heights Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant

city/town, at the scale of district/neighbourhood/street and at the scale of site/building, in addition to specific assessments.

*Section 3.2 Criteria: At the scale of relevant city/town*

7.3.12. The first criteria under Section 3.2 of the Building Heights Guidelines relates to whether the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. My assessment above addressing the location of the proposed development with respect to appropriate densities, indicates that the site is currently well served by public transport. The is also located within 400 metre walking distance of the Salthill and Monkstown Dart Station as well as a no. of bus routes. National and local policy recognises the need for a critical mass of population at accessible and serviced locations within the Metropolitan area. I am satisfied that the site is reasonably-well located and serviced with options to access existing high-frequency, high-capacity public transport routes, as well as increased access and connections available through more active modes of walking/cycling, and with an array of services and amenities within walking and cycling distance. Overall, I am satisfied that the level of public transport currently available is of a scale that can support the resultant future population.

7.3.13. Point two under this part of the Section 3.2 criteria relates to the scale of the development and its ability to integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, the setting of key landmarks and the protection of key views.

7.3.14. The third party appellant and observers alike assert that the subject site would fail to properly integrate into the area, particularly given the varying topography of the area, and would unduly impact visual amenity of the receiving environment. The applicant argues that the proposed development is suitable given the 7.5 metre difference in level across the site/the boundary being enclosed by 17.5 metre high trees along the boundary. I would share the concerns raised by third parties regarding the height and scale of the proposed development, particularly having regard to the topography of the site in this instance. The wider area is predominantly residential, dominated by two storey housing, with a limited number of 3 storey residential buildings. The proposed 6 storey blocks will be considerably taller than the existing buildings featuring on adjacent sites, particularly those to the north which site lower

that the subject site. Notwithstanding the separation distances proposed between the proposed development and the existing residential developments to the north, south and east, the impact in terms of overbearing would be significant and would be considered to adversely impact upon their residential amenities (as will be discussed in greater detail in the subsequent section of this report). It is considered that having regard to the topography of the subject site, that the height, scale and layout as presented would have an adverse impact upon the existing neighbouring residential dwellings.

7.3.15. In terms of architectural sensitivity, I note that the subject site is proximate to/falls within (in part) the Monkstown Architectural Conservation Area and its western boundary abuts the curtilage of a Protected Structure (Dalguise House). The subject development's appropriateness in the context of this ACA/Protected Structure is subsequently considered in Section 7.9 of this report. The proposed development's appropriateness in terms of visual amenity is assessed in more detail later in this section of this report. The site is not subject to any development plan objectives relating to protected views or prospects.

7.3.16. With regard to the contribution of the development to place-making and the delivery of new streets and public spaces, I note that there are limited opportunities regarding new street provision given the limited size and context of the subject site.

7.3.17. The proposal does not have sufficient regard to its proximity to neighbouring properties and in my view, it would negatively impact on the amenity of adjacent properties to the south, north and east (see Section 7.4 below). Following on from reasons outlined above with respect to failure to integrate with the surrounding character, on balance I do not consider the development would make a positive contribution to place-making.

*Section 3.2 Criteria: At the scale of District / Neighbourhood / Street*

7.3.18. The bullet points under this section of the Building Heights Guidelines relate to how the proposals respond to the overall natural and built environment and contribution to the urban neighbourhood and streetscape, whether the proposal is monolithic in form, whether the proposal enhances the urban design of public spaces in terms of enhancing a sense of scale and enclosure, the issue of legibility through the site and integration with the wider urban area and the contribution to



building/dwelling typologies available in the neighbourhood. The Planning Authority assert that at this scale the proposed development would not respond appropriately to its overall natural and built environment, nor would it make a positive contribution to the receiving environment. The applicant considers the development to respond to its overall natural and built environment by providing a high-quality design, with building heights sensitive to their context and the development making a positive contribution to the area. As referred to above, I do not consider the proposed development to make a make a positive contribution on balance to the area. While the variety of materials/finishes utilised does help to break down the building massing somewhat, the span of the blocks and limited variation adopted in terms of height and setbacks across the buildings would create a development monolithic in appearance on balance.

7.3.19. The requirements of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009) have been complied with as part of the applicant's submission. The Flood Risk Assessment, prepared by Lohan & Donnelly Consulting Engineers, accompanying the application includes an assessment of potential flood risk arising from the proposed development (this matter is considered in detail in a subsequent section of this report).

7.3.20. With regard to the consideration of the criteria relating to legibility, the link to the adjoining site proposed to the west of the site would make a substantive positive contribution to the legibility in the wider urban area.

*Section 3.2 Criteria: At the scale of site / building*

7.3.21. As per the Building Heights Guidelines, in relation to consideration at the scale of the site/building, I have considered in more detail in Section 7.4 the impact of height on the amenity of neighbouring properties, including issues such as daylight, overshadowing, loss of light and privacy. I consider the form of the proposed development has not been appropriately considered in this regard and issues in relation to overbearing have been adequately addressed as part of the proposed development.

*Section 3.2 Criteria: Specific Assessments*

7.3.22. The proposed development comprises 2 no. 6-storey blocks. I consider that, although the proposed buildings are significantly taller than the existing context of

development, it is not an exceptionally tall building such as would be likely to give rise to an acceleration of wind speed or 'downdraft' effects.

7.3.23. Daylight/sunlight will be considered in Sections 7.4 and 7.5 of this report.

7.3.24. The site is located within an urban environment but features a no. of established trees/planting along its northern and southern boundaries, as well as the access road serving the site. Some of the trees featuring form part of a heronry, as well as having been the subject of bat activity. The application is accompanied by an Ecological Impact Assessment (inclusive of a Bat Fauna Impact Assessment, a Bat Assessment Report and a Report on Heronry), prepared by Altamar Marine & Environmental Consultancy, which considers the proposed development's potential impact on ecology. Please see Section 7.8 of this report for further discussion in this regard. Further to this, there are 2 no. designated sites within c. 350 metres of the subject site. The application is accompanied by an Appropriate Assessment Screening and Natura Impact Statement, prepared by Altamar Marine & Environmental Consultancy. The proposed development's potential impacts on these and other Natura 2000 sites is considered in Section 8.0 of this report. Please refer to Section 8.0 for further details.

7.3.25. Turning my attention to consideration of the proposed development's potential visual impact on the immediately surrounding area. The site is not subject to any development plan objectives relating to protected views or prospects but, as previously mentioned, part of it falls within the Monkstown Architectural Conservation Area. It is noted that the Planning Authority's refusal reason makes specific reference to the proposed development being seriously injurious to the visual amenities of the area. I note the application is accompanied by photomontages, prepared by Digital Dimensions, as well as a small number of CGI images.

7.3.26. The proposed development would change the site from a low-rise former nursing home building to a higher-density apartment scheme with buildings of 6 storeys in height. This represents a substantive increase in building height and scale when considering the existing low-rise single storey building characterising the site currently as well as the 4-storey buildings previously approved under ABP Ref. ABP-305843-19. The development would substantially alter the character of the site. I am satisfied that the visual change resulting from the subject development would be largely imperceptible from the Carrickbrennan Road and Monkstown Road

streetscape, given the proposed development's setback from its Carrickbrennan Road frontage and the built form present in Monkstown Village. This is clearly illustrated by the photomontages generated in the context of viewpoints 1 and 5. However, I am of the view that substantial visual impacts would arise on sites to the immediate north, south and east of the subject site. The area surrounding the subject site features residential land uses. The photomontages generated in the context of viewpoints 2, 3 and 4<sup>2</sup> illustrate how the proposed development will be viewed in the context of the Alma park Estate to the east, Richmond Park Estate to the south and Heatherfield Estate to the north, respectively. As illustrated in these photomontages, the proposed development at six storeys will be considerably taller than buildings featuring in this part of Monkstown and I consider that the development is likely to have an adverse visual impact on the immediately adjoining residential area, given the sharp contrast in scale between the 6 storey blocks proposed and the immediately adjacent one to three storey dwellings and the limited setbacks adopted at upper floor levels.

7.3.27. Having examined the development in the context of the built form/architectural styles of the surrounding area, I am of the view that the proposed building will provide for an obtrusive insertion in this streetscape, is of a scale and design inappropriate to the site and will significantly detract from the visual amenity of this area. I consider that the proposed development would be excessively visually dominant at this location having regard to the foregoing.

7.3.28. To conclude, I am not satisfied that the proposed development would make a positive contribution to the area and would respond well to the built environment in visual terms. The Board may in circumstances approve development for higher buildings, even where specific objectives of the relevant Development Plan may indicate otherwise, as per SPPR 3(a). In this regard, the proposed building height would be greater than the height of existing neighbouring buildings. I am not satisfied that the proposed development would provide for a well-considered suburban development at this reasonably accessible site, and the building heights proposed would not be in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas. While the proposed scheme may be of a contemporary design, I am not satisfied that it would make a

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<sup>2</sup> I note that the photomontages pertaining to viewpoint 4 have been incorrectly labelled as viewpoint 5 and vice versa.

positive contribution towards place-making in the area for the reasons cited above, and as such it would fail to satisfy the development management criteria required in section 3.2 of the Building Heights Guidelines to allow the development to be approved, even where specific objectives of the relevant Development Plan may indicate otherwise. I consider that this six storey development has a detrimental impact on the character and visual amenity of the area and the mass/height is contrary to Policy Objective PHP35: Healthy Placemaking and the building height strategy contained in the recently adopted Dun Laoghaire Rathdown County Development Plan 2022-2028 and the Building Height Guidelines 2018. Therefore, I recommend that permission be refused due to the proposed height/massing of the development being out of character with the existing form of development in the area and the apartment buildings being injurious to the visual amenity of the immediate area.

#### **7.4. Residential Amenity of Adjoining Properties**

7.4.1. One of the primary issues raised by the Planning Authority, third party appellants and third party observers alike is that the proposed development will have a negative impact on the residential amenities of the adjacent properties. The Planning Authorities refusal reason refers to the fact that the proposed development would be seriously injurious to the residential amenities of properties located within its immediate vicinity and would be visually overbearing.

##### *Properties to the North*

7.4.2. The site is bounded to the north by Nos. 81A Monkstown Road (westernmost part), 87 Monkstown Road (central part) and 95 Monkstown Road (easternmost part). These sites feature a 7 no. unit residential development currently under construction on foot of planning permission ABP Ref. ABP-307151-20, a double storey detached dwelling set within a mature landscaped garden and a double storey residential centre set within a large mature landscaped garden, respectively.

7.4.3. Before considering the proposed development's potential impacts in terms of overlooking, overbearing and overshadowing, I think it beneficial to discuss the subject site in the context of its interface with the neighbouring properties to the north, in particular the level difference that exists between the sites. As is clearly visible when on site and illustrated in the contextual elevations/site sections and photomontages,

submitted with the planning application, the subject site sits slightly higher than its northern abutments.

7.4.4. Turning my attention to the matter of potential overlooking firstly. In the context of proposed Block A and its potential overlooking of No. 95 Monkstown Road, upon review of the plans submitted with the application, a minimum separation distance of c. 57 metres to the nearest south-facing window associated with this property and 19.7 metres from the common boundary is provided. The separation distances proposed are sufficient to obviate potential unreasonable overlooking of windows and the private amenity space areas associated with No. 95 Monkstown Road. With regards to the potential overlooking of No. 87 Monkstown Road, I note that the proposed communal open space area abuts the majority of the common boundary with this property with only the north-eastern corner of proposed Block B providing an opportunity for overlooking of this northerly abutment. The applicable part of Block B adopts minimum separation distances of 43 metres to the nearest south-facing window associated with this property and 19.2 metres from the common boundary, which I consider sufficient to appropriately reduce potential overlooking.

7.4.5. In the context of potential overlooking from the remainder of proposed Block B, I note that the majority of this aspect of the proposed development sits opposite the southern boundary of No. 81A Monkstown Road. At the time this application was lodged, Nos. 81A Monkstown Road comprised of a bungalow with a large rear garden. In the intervening period since this application was lodged, construction has commenced at No. 81A Monkstown Road of the 7- unit residential development approved under ABP Ref. ABP-307151-20 (and subsequently amended under Reg. Ref. D23A/0145). The third-party appellants have raised particular concern regarding potential overlooking from windows/balconies plans associated with Block B which they contend are a mere c. 11 metres away from the private open space serving the units under construction. In their response to this aspect of the third party appeal, the first party appellant argues that the footprint of the development is broadly the same as that approved by the 2019/2020 planning application (ABP Re. ABP-305843-19) and similar separation distances from boundaries/neighbouring properties are adopted to those proposed in the previously granted development.

7.4.6. With regards to overlooking of windows associated with the 7-units currently under construction to the north, Houses 6 and 7 are the only 2 no. houses featuring windows along their southern facades with a direct outlook towards the common boundary (Houses 1-5 forming a row of dwellings to the north of House 6). In the context of House 6, there are 2 no. windows at upper floor levels of the southern façade and of these, one serves a landing. The other window serves an entertainment room featuring at second floor level. Due to the positioning of the entertainment room to the rear of the dwelling, the applicable window has an outlook across the landscaped strip featuring to the west of Block B as opposed to Block B's northern façade/balconies featuring in the north-western corner. I note that when compared to the development approved under ABP Ref. ABP-305843-19, Block B adopts a more generous separation distance from the subject site's western and northern boundaries. House 7 features 2 no. windows at first floor level of the southern façade, associated with a study, with an outlook to Block B's northern facade. These windows are located c. 23 metres from the common boundary with the subject site. Having regard to Block B's positioning relative to House 6's entertainment room window and the separation distance that exist between proposed Block B and House 7's south-facing windows, I am satisfied that these neighbouring windows will not be unreasonably overlooked in this instance.

7.4.7. Consideration is also needed in relation to potential overlooking of private amenity spaces associated with the 7-units currently under construction to the north. In this regard, Houses 6 and 7 feature private amenity space proximate to the common boundary. House 6's private amenity space is located to the rear of the dwelling and therefore sits immediately opposite the landscaped strip featuring to the west of Block B as opposed to Block B's northern façade/balconies featuring in the north-western corner. In addition to the boundary treatment featuring along the common boundary, an additional boundary fence features along the southern boundary of this private amenity space area. House 7's private amenity space is located to the rear of the dwelling and therefore sits opposite Block B's northern façade. However, its southern boundary is offset c. 15 metres from the common boundary, with a turning head/shared open space area/shared bicycle parking area featuring in the intervening space. Having regard to Block B's positioning relative to House 6's private amenity space, the separation distances that exist between proposed Block B and House 7's

private amenity space and the boundary fences/treatments and communal facilities/turning head featuring adjacent to the common boundary with the subject site, I am satisfied that these neighbouring private amenity spaces will not be unreasonably overlooked in this instance.

- 7.4.8. With regards to the potential overbearing impact, the proposed development involves the replacement of existing single storey buildings with 2 no. substantial 6 storey over basement level apartment blocks. In the context of the northerly abutments, Block A adopts a minimum setback of c. 19.2 metres from and spans a length of c. 22 metres along No. 95 Monkstown Road's southern boundary and Block B adopts a minimum setback of c. 18.75 metres from and spans a length of c. 20 metres along No. 81A Monkstown Road's southern boundary. No. 87 Monkstown Road is located immediately opposite the open space area featuring between proposed Blocks A and B, with a minimum separation distance of 19.2 metres provided from the north-eastern corner of Block B. In terms of height, both Block A and B extend to a maximum height of 19.25 metres. I consider that the proposed development will have an unreasonable overbearing impact on the neighbouring properties to the north, in particular No. 81A Monkstown Road, due to the existing site context, the layout of the adjacent development in the context of No. 81A Monkstown Road and the design/layout/height of the proposed blocks which are 3-5 storeys taller than adjacent properties to the north/adopt very limited setbacks at fourth and fifth floor levels. The overbearing impact is further exacerbated due to the fact that the subject site sits slightly higher than its northern abutments due to the topography of the immediately surrounding area. The proposed development is considerably taller than the existing building featuring on site/the 4-storey development previously approved on site under Reg. Ref. D19A/0378/ABP Ref. ABP-305843-19 and while the riparian corridor/extensively planted area being retained along the subject site's northern boundary, does aid in reducing the proposed development's impact somewhat, it does not sufficiently mitigate the proposals overbearing impact so as to warrant approval. While the site's central location may merit an intensification of development/increased density, as argued by the first party appellant, when balanced against the need to protect the residential amenity of the surrounding area, I am not satisfied that the introduction of a 6-storey development is appropriate in this instance, particularly having regard to

the confined nature of the subject site. In light of the above, it is recommended that that the proposed development be refused permission.

- 7.4.9. With regards to potential overshadowing, given the positioning of House 6's private amenity space relative to Block B and the separation distance that exists between House 7's southern boundary and the common boundary, I am satisfied that the proposed development will also not cause unreasonable overshadowing of adjacent private amenity spaces to the north. Having assessed the shadow casting diagrams, featuring in the Daylight and Sunlight Report prepared by Digital Dimensions accompanying the application, it would appear that shadows cast from the proposed blocks on to No. 81A Monkstown Road would be minimal and generally confined to the shared accessway/open space area featuring in the south-eastern corner of this neighbouring site.

*Properties to the South*

- 7.4.10. The site's southern boundary (westernmost part) is flanked by 7 no. two-storey detached and semi-detached dwellings, known as Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park. More specifically, the rear gardens serving these dwellings flank the common boundary with the subject site.
- 7.4.11. Again, I think it beneficial to discuss the subject site in the context of its interface with the neighbouring properties to the south, in particular the level difference that exists between the sites. As is clearly visible when on site and illustrated in the contextual elevations/site sections and photomontages, submitted with the planning application, the subject site sits lower than the existing dwellings at Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park. Due to the c. 6 metre drop that occurs across the subject site proximate to the subject site's southern boundary, the proposed developments' ground and first floor levels will sit below the properties to the south and the proposed developments' second and third floor levels will sit opposite Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park's ground and first floor levels.
- 7.4.12. With regards to the potential overlooking of the dwellings to the south, upon review of the plans submitted with the application, minimum separation distance of 22.445 metres to the nearest north-facing window associated with these properties and 12 metres from the common boundary with the southern abutments is provided. The



separation distances proposed are sufficient to obviate potential unreasonable overlooking of windows and private amenity space areas associated with Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park.

7.4.13. Turning my attention to the matter of potential overbearing impacts on the dwellings to the south. I acknowledge that the c. 6 metre difference in level that exists between the subject site and its southern abuttals, as well as the extensively planted area being retained along the subject site's southern boundary, assist in mitigating the proposed development's overbearing impact. However, the proposed development is considerably taller than the existing building featuring on site/the 4-storey development previously approved on site under Reg. Ref. D19A/0378/ABP Ref. ABP-305843-19 and given the confined nature of the subject site and the massing/design of the proposed blocks, is highly visible from the southern abuttals. This is clearly illustrated in the View 3 Photomontages included in the Photomontage Booklet, prepared by Digital Dimensions, included with the application. Therefore, I consider that the proposed development will have an unreasonable overbearing impact on the neighbouring properties to the south and as such, should be refused permission.

7.4.14. Given the orientation of the proposed development, to the north of Nos. 13, 14, 15, 16, 17, 18 and 18A Richmond Park, the proposed development will also not cause unreasonable overshadowing of adjacent private amenity spaces to the south.

#### *Properties to the East*

7.4.15. In terms of properties to the east, on the opposite side of Richmond Green/the pedestrian lane, are Alma Place, Ronard and 2 Richmond Park Drive. These properties comprise of a terrace of double storey dwellings, a 3 storey detached house and a 2 storey detached house, respectively. In terms of difference in topography, as Ronard and 2 Richmond Park Drive are located further south, they sit slightly above the subject site.

7.4.16. With regards to the potential overlooking of the dwellings to the east, upon review of the plans submitted with the application, a minimum separation distance of 23.64 metres to the nearest property featuring to the east (2 Richmond Park Drive) is provided. The separation distances proposed are sufficient to obviate potential unreasonable overlooking of Alma Place, Ronard and 2 Richmond Park Drive.

7.4.17. Turning my attention to the matter of potential overbearing impacts on the dwellings to the east. As discussed in the preceding sections, the proposed development is considerably taller than the existing building featuring on site/the 4-storey development previously approved on site under Reg. Ref. D19A/0378/ABP Ref. ABP-305843-19 and given the open nature of the subject site's eastern boundary, the confined nature of the subject site and the massing/design of the proposed blocks, is highly visible from the properties featuring to the east. Further to this, due to the proposed location of the basement carpark entry, limited opportunity exists for the introduction of trees/screen planting along the eastern boundary to help mitigate the proposals overbearing impact and in fact, existing trees/screen planting currently featuring along the eastern boundary will require removal to accommodate the same. It is, therefore, my view that the proposed development will unacceptably undermine the residential amenity of Alma Place, Ronard and 2 Richmond Park Drive by way of overbearing and should be refused permission accordingly.

7.4.18. Given the orientation of the proposed development, to the west of Alma Place, Ronard and 2 Richmond Park Drive, as well as the separation distances provided, the proposed development will also not cause unreasonable overshadowing of adjacent private amenity spaces to the east.

*Properties to the West*

7.4.19. The site's western boundary is currently flanked by part of the grounds/gardens associated with Dalguise House, a three storey dwelling which is a Protected Structure. Given the separation distance that exists between the subject site and the dwelling featuring on this site, the orientation of the subject site relative to this westerly abuttal and the extensive tree planting featuring in the part of the garden/grounds proximate to the common boundary with the subject site, I am satisfied that the proposed development would have any unreasonable overlooking, overbearing or overshadowing impacts on the property currently featuring to the west.

**7.5. Residential Amenity of Proposed Development**

7.5.1. The appropriateness of residential amenity afforded the future residents of the proposed development as originally lodged and as revised as part of the appeal submission are considered in turn below.

### Originally Lodged Proposal

7.5.2. The third party observers to the appeal contend that the proposed apartments provide a poor level of amenity for future residents, particularly given the excessive amount of single aspect apartments proposed and the poor quality of open space provided to serve apartments. Further to this, the Planning Authority raised a number of concerns regarding certain aspects of the proposed apartment blocks and the residential amenity afforded future residents. In considering the residential amenity of the proposed development, regard is had to the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022) and the requirements of the Dún Laoghaire Rathdown County Development Plan 2022-2028.

### Unit Mix

7.5.3. The proposal would entail the provision of 96 no. apartments (48 no. 1-bed apartments and 48 no. 2-bed (4P) apartments). This complies with the 50% one bed/studio units specified in relation to unit mix in Specific Planning Policy Requirement 1. Section 12.3.3 of the Dún Laoghaire Rathdown County Development Plan 2022-2028, more specifically Table 12.1 contained therein, specifies a mix requirement for apartment developments involving 50+ units within existing built up areas. Compliance with this requirement was previously discussed in Section 7.2.

### Floor Areas

As detailed in the housing quality assessment/floor plans accompanying the application, the 1-bed units would have a floor area of between 45sqm and 55sqm and the 2-bed (4P) units would have a floor area of between 77sqm and 94sqm. With respect to minimum floor areas, the proposed apartments exceed the minimum overall apartment floor areas specified in the Apartment Guidelines as well as complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, there is a requirement under Section 3.8 for *‘the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio*

*apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%’.* In this case this standard is also met.

#### Dual Aspect/Floor to Ceiling Heights/ Apartments per Core

7.5.4. Specific Planning Policy Requirement 4 requires that a minimum of 33% of apartments proposed are dual aspect units in more central and accessible urban locations, Specific Planning Policy Requirement 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres and Specific Planning Policy Requirement 6 specifies a maximum of 12 apartments per core. With regards to dual aspect, upon review of the plans submitted with the application, 48 apartments constitute dual or triple aspect units. At 50%, the proposed development complies with the requirements of SPPR 4. With regards to north facing apartments, upon review of the plans submitted with the application, I deem there to be 16 north facing apartments in the proposed development. This differs from the figure provided by the applicant in the application material. The Apartment Guidelines state that *‘north facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature.’* The proposed north-facing apartments have an outlook across the riparian corridor/extensively planted area being retained along the subject site’s northern boundary, which is consistent with this guidance. It is noted that the Potential Daylight and Sunlight Impact Report, prepared by Digital Dimensions, submitted with the application found the proposed north-facing apartments to be compliant with the applicable daylight/sunlight parameters.

7.5.5. The floor ceiling height at ground floor level would be 2.7 metres and a maximum of 8 apartments per core is proposed, thus complying with the applicable numerical requirements of these two standards. With regards the suitability of the floor-to-ceiling heights, the Planning Authority raised concerns regarding the ceiling height, and the relatively close proximity of the ground floor south-facing apartment units to the rear retaining wall. Upon review of the sections/plans accompanying the application, I would share these concerns, in particular in the context of the ground floor south-facing apartments featuring in Block B. It would appear that the southern facades of these apartments are setback a mere 3.6 metres from the retaining wall featuring

immediately south in some instances. This retaining wall extends to a height of c. 2.8 metres and marks the start of a very steep embankment featuring along the site's southern boundary. I do not consider these apartments have been designed having appropriate regard to the topography of the site and the retaining wall featuring as a result.

#### Storage

7.5.6. As detailed in the housing quality assessment/floor plans accompanying the application, the 1-bed units would be provided with between 3sqm and 5sqm of storage and the 2-bed (4P) units by between 6sqm and 8.8sqm of storage which complies with the numerical storage requirements specified in Appendix 1 of the Apartment Guidelines, 2022. However, upon review of the plans, it would appear that the majority of storage spaces serving the proposed apartments (more specifically Unit Types No. 1, 2, 6, 7, 9, 10, 14, 15, 17, 18, 22, 23, 25, 26, 30, 31, 34, 37, 42 and 45) is provided in the form of an individual storage room >3.5sqm within the apartment which is contrary to the following stipulation set out in Paragraph 3.31 of the guidelines: - *'as a rule, no individual storage room within an apartment should exceed 3.5 square metres.'* However, I am satisfied that compliance with this aspect of the requirements could be addressed by way of condition should the Board be inclined to grant planning permission.

#### Private Amenity Space

7.5.7. Turning to private amenity space. As detailed in the housing quality assessment/floor plans accompanying the application, the 1-bed units would be served by balconies between 5sqm and 11.6sqm in size and the 2-bed (4P) units by between 7sqm and 15sqm provided across 1 or 2 no. balconies, which have a minimum depth exceeding 1.5 metres, thus complying with the quantitative requirements set out in relation to private amenity space. I am satisfied that the majority of the proposed private amenity areas also satisfy the qualitative requirements of the Apartment Guidelines given their orientation, the separation distance provided between the blocks and their positioning relative to each other/proposed windows. However, I would have concerns about the quality of the private amenity areas serving ground floor south-facing apartments, in particular those featuring in Block B. As previously discussed, the retaining wall featuring to the north of the southern embankment is located in close proximity to these

rear ground floor apartments, setback between 3.65 metres and 5.4 metres of the outer edge of Block A's ground floor balconies and setback between 2.2 metres and 3.769 metres of the outer edge of Block B's ground floor balconies. This retaining wall extends to a height of c. 2.8 metres, with the adjacent embankment sloping steeply thereafter. It is considered that, given the minimal separation distances provided, an unacceptable sense of enclosure would be created for future residents of these apartments, as well as a poor sense of outlook. On foot of the foregoing, I consider that the level of residential amenity for future occupants of the ground floor south-facing apartments would be unacceptable.

#### Communal Amenity Space

- 7.5.8. In accordance with Appendix 1/paragraph 4.13 of the Apartment Guidelines, a minimum of 576sqm of communal amenity space would be needed to serve the proposed apartments and in light of the no. of 2+ bedroom apartments proposed, this is required to contain a small play space (about 85–100 sq. metres) to serve the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. The proposed development complies with the broad numerical communal amenity space requirements, providing 592sqm, inclusive of a 165sqm play area.
- 7.5.9. With regards to the quality of the communal amenity space proposed to serve the development, the Planning Authority has raised concerns about the functional use of the space having regard to the relatively restricted layout of the site, the height/orientation of the proposed blocks, and the restrictions on the site in terms of the front stream, bank, and rear bank/retaining wall. A number of third party observers have also referenced the poor quality of open space provided to serve apartments.
- 7.5.10. From a qualitative perspective, I am satisfied that the proposed communal amenity space is appropriately overlooked and conveniently located relative to the apartment blocks proposed as well as being of an appropriate size/design so as to be usable. The Apartment Guidelines require that designers '*ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year*'. The application is accompanied by a Potential Daylight and Sunlight Impact Report, prepared by Digital Dimensions, which includes an assessment of the proposed open space areas against the BRE guidelines. It

concludes that the proposed development meets the relevant criteria, with amenity spaces within the development receiving in excess of 2 hours over 50% of the amenity space. I am not entirely satisfied with their assessment in the context of amenity spaces serving the proposed development. Upon review of the proposed radiation map of amenity areas (included in Figure 7), which informs the assessment, it appears that part of the access road to the site has been included in the assessment, as well as the riparian corridor/planted area featuring along the northern boundary. Irrespective of this, I am satisfied that the proposed communal open space area is of sufficient size/dimensions and appropriately positioned for adequate levels of sunlight to reach communal amenity space throughout the year. Further to this, supplementary to the central communal amenity area featuring between Blocks A and B, residents of the development will have access to an additional area of usable open space in the embankment area adjacent to the southern boundary which will feature a nature trail and seating area leading from the central communal amenity area. In light of the foregoing, the proposed communal amenity spaces are also considered appropriate from a qualitative perspective.

#### *Daylight/Sunlight*

- 7.5.11. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. In this regard, the application is accompanied by a Potential Daylight and Sunlight Impact Report, prepared by Digital Dimensions, which among other things includes an assessment of the proposed apartments in terms of daylighting to habitable rooms. I am generally satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units.

#### Conclusion

- 7.5.12. In conclusion, I am not satisfied that the proposed development would provide quality apartments which provide a suitable level of amenity for future residents. While the proposed development complies with a number of the numerical standards set out in the Apartment Guidelines, a number of qualitative issues were uncovered upon review of the drawings. While some of these qualitative issues could be dealt with by way of condition (those relating to the size/configuration of individual storage areas),

those pertaining to the ground floor south-facing apartments require an extensive redesign/possibly engineering solutions to overcome which cannot be dealt with by way of condition. Therefore, it is recommended that the proposed development is refused in this instance due to the poor level of residential amenity offered future residents of the development. I note this constitutes a new issue which was not previously raised in the Planning Authority's refusal reasons.

#### Revised Proposal

- 7.5.13. The applicants have submitted a revised proposal with their appeal submission. They ask that it form the basis for the Board's assessment in the event that the Board are not satisfied with unit mix as lodged originally with the Planning Authority. This section will assess the revised proposal in the context of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022).

#### *Unit Mix*

- 7.5.14. The revised proposal would entail the provision of 92 no. apartments (40 no. 1-bedroom apartments, 44 no. 2-bedroom (4P) apartments and 8 no. 3-bedroom apartments). This continues to comply with the unit mix specified in Specific Planning Policy Requirement 1.

#### *Floor Areas*

- 7.5.15. As detailed in the housing quality assessment/floor plans accompanying the appeal submission, the 1-bed apartments would have a floor area of 50sqm and 55sqm, the 2-bed (4P) apartments would have a floor area of between 77 sqm and 94sqm and the 3-bed apartments would have a floor area of between 118.4sqm or 122.7sqm. With respect to minimum floor areas, the proposed apartments comply/exceed the minimum overall apartment floor areas specified in the Apartment Guidelines. Further to this, it complies with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas, as well as the requirements under Section 3.8.

#### *Dual Aspect/Floor to Ceiling Heights/Apartments per Core*



7.5.16. In the revised scheme, upon review of the plans submitted with the appeal, 48 apartments constitute dual or triple aspect units. At 52%, the proposed development complies with the requirements of SPPR 4. Further to this, all the 3-bedroom apartments featuring in the revised scheme are dual aspect. With regards to north facing apartments, I deem there to be 12 north facing apartments in the proposed development. These north-facing apartments have an outlook across the riparian corridor/extensively planted area being retained along the subject site's northern boundary, which is consistent with this guidance.

7.5.17. With regards to the floor ceiling height at ground floor level and no. of apartments per core, the revised proposal does not alter the 2.7 metres floor ceiling height at ground floor level and maximum of 8 apartments per core originally proposed and thus continues to comply with the applicable quantitative aspect of these two standards. The revised plans submitted do not propose any amendments to the floor to ceiling height of the ground floor rear apartments proposed. Therefore, the concerns outlined in the previous section in the context of these apartments remain.

#### *Storage*

7.5.18. As detailed in the housing quality assessment/floor plans accompanying the appeal submission, the 1-bed apartments would be provided with between 3sqm and 3.9sqm of storage, the 2-bed (4P) apartments by between 6sqm and 8.8sqm of storage and the 3-bed apartments by 13.2sqm of storage which complies with the numerical storage requirements specified in Appendix 1 of the Apartment Guidelines, 2022. However, upon review of the plans, it would appear that the majority of storage spaces serving the proposed apartments (more specifically Unit Types No. 1, 2, 6, 7, 9, 10, 14, 15, 16, 17, 21, 22, 24, 25, 29, 30, 32, 35, 40 and 43) is provided in the form of an individual storage room >3.5sqm within the apartment which is contrary to Paragraph 3.31 of the guidelines. However, I am satisfied that compliance with this aspect of the requirements could be addressed by way of condition should the Board be inclined to grant planning permission.

#### *Private Amenity Space*

7.5.19. In the revised proposal, the 1-bed units would be served by balconies of between 5sqm and 13.7sqm, the 2-bed (4P) units by balconies of between 7sqm and

15.3sqm and the 3-bed units by balconies of 15.3sqm and 20.8sqm, all of which have a minimum depth of or exceeding 1.5 metres. Therefore, the balconies serving the revised 1-bed, 2-bed and 3-bed apartments comply with the quantitative requirements set out in relation to private amenity space. I am satisfied that the proposed private amenity areas also continue to satisfy the qualitative requirements of the Apartment Guidelines, save for in the context of proposed ground floor south-facing apartments. For the reasons outlined in the previous section, the level of residential amenity for future occupants of these apartments is considered to be unacceptable.

#### *Communal Amenity Space*

7.5.20. In accordance with Appendix 1/paragraph 4.13 of the Apartment Guidelines, a minimum of 580sqm of communal amenity space would be needed to serve the proposed apartments and in light of the no. of 2+ bedroom apartments proposed, this is required to contain a small play space (about 85–100 sq. metres) to serve the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. The proposed development complies with the broad numerical communal amenity space requirements, providing 592sqm, inclusive of a 165sqm play area. From a qualitative perspective, the communal amenity space is provided in the same location as the proposal as originally lodged. Therefore, I remain satisfied that the proposed communal amenity space is appropriately overlooked, conveniently located relative to the apartment block proposed, appropriately sized/designed so as to be usable and will receive an appropriate level of daylight/sunlight.

#### *Conclusion*

7.5.21. In conclusion, I am not satisfied that the revised development proposal submitted with the appeal would provide a suitable level of amenity for future residents for the same reasons outlined in the previous section of this report.

### **7.6. Access, Traffic and Parking**

7.6.1. The vehicular/ pedestrian route that is proposed to access this development is similar to the current layout serving the former Richmond Cheshire Home and is similar to that previously approved under PA Reg. Ref. D17A/0590/ABP Ref. ABP-301533-18. The application was accompanied by a Traffic and Transportation Assessment,

prepared by Martin Rodgers Consulting Ltd. The applicant is satisfied that the traffic generated by the proposed development can be accommodated on the existing road network subject to minor improvements to the Richmond Green road layout.

7.6.2. Observers have raised concerns about the existing traffic situation in the area will be made worse by the proposed development. Concerns centre around the capacity of the existing road infrastructure and the likely negative impact of the increase in traffic from this new development on pedestrian/cyclist safety. One observer also raised concerns about the inclusion of an area of footpath in the application boundary which is not owned by the applicant. The Planning Authority's Transportation Planning Section were satisfied with the proposed vehicular/pedestrian access in principle but requested that further information be provided by the applicant in relation to signage communicating the extent of the proposed 10km/h speed limit, the areas of grass-crete proposed and to submit revised drawings and details which demonstrate that potential conflicts arising from the proposed vehicular access layout and pedestrian, cyclist and vehicular users on the existing roadway are adequately mitigated, including the provision of a STOP sign at the top of the proposed basement ramp, and a level on-ramp "dwell area" to allow vehicles to comfortably stop while assessing visibility. They also asked that the applicant submit a revised Traffic and Transport Assessment, inclusive of updated surveys, and an updated Construction Management Plan, demonstrating how the proposal protects the recently completed Monkstown Village Traffic Improvement scheme during construction.

7.6.3. As part of the grounds of appeal, the appellant submitted additional information and revised plans in response to items raised by the Planning Authority's internal departments in their commentary on the application. This included a revised Traffic and Transportation Assessment, prepared by Martin Rodgers; A revised Outline Construction Management Plan Report, prepared by Lohan & Donnelly Consulting Engineers; and revised drawings inclusive of an improved visibility splay along Kenilworth Way, a stop sign/dwell area on the basement ramp and alterations to the grass crete area.

7.6.4. I am satisfied, having regard to the to the material submitted with the appeal, that the proposed development will not pose an unacceptable level of traffic hazard or unduly

impact on the carrying capacity of the surrounding road network and junctions. I feel that the access issues alluded to by observers in relation to the proposed development are in reality caused by continuous incidences of illegal parking along Richmond Green (both sides of the road), some of which I witnessed during my site inspection. The issue of illegal on-street parking is a matter for the enforcement authorities as opposed to the developer in question and is not a reason to restrict development. The issue of illegal parking can be dealt with through enforcement, road markings, signage, etc. and it would be unreasonable to restrict the redevelopment of the subject site for such impediments to access.

7.6.5. Turning my attention to the concern raised, by the observer Michael Begley, regarding the inclusion of an area of footpath in the application boundary which is not owned by the applicant. The proposed development involves alterations to Richmond Green to improve pedestrian access/ensure vehicular safety. More specifically, it is proposed to extend the footpath currently featuring on the western side of Richmond Green northwards and introduce a raised table to tie it in with the footpath currently featuring on the eastern side of Richmond Green. Vehicles will be required to stop/yield in advance of traversing across this raised table. The issue of the inclusion of the part of the existing footpath referenced in Mr. Begley's observation was considered extensively in the context of the previous application for the site under Reg. Ref. D17A/059/ABP Ref. ABP-301533-18, with the first party appeal response submitted including a revised scheme of alterations to Richmond Green in response to this issue. This revised scheme of alterations included a 1 metre extension to the width of the existing path. The Board deemed this revision to have appropriately addressed the issue raised and in granting permission for the applicable development, attached the following condition (Condition No. 3) accordingly:

*3. An additional footpath and road markings shall be constructed adjacent to the existing footpath in accordance with drawing number PA-003 submitted to An Bord Pleanála on the 9<sup>th</sup> day of July, 2018.*

**Reason:** *In the interests of clarity and pedestrian and traffic safety.*

7.6.6. The subject proposal, although adopting a similar layout to that approved under Reg. Ref. D17A/059/ABP Ref. ABP-301533-18, does not adopt the same 1m extension to the width of the existing path. However, I am satisfied that a similar 1m extension to

the width of the existing path to that approved in the context of ABP Ref. ABP-301533-18 could be requested by way of condition. Subject to the provision of a 1 metre extension to the width of the footpath proximate to the proposed raised table, and resultant tweaks to the adjacent stop area, the proposed access arrangements are considered appropriate. Therefore, it is recommended that the Board, if inclined to grant permission, attach a suitably worded condition requiring these amendments to the proposed road layout arrangements.

### Parking

- 7.6.7. In terms of car parking provision, under provision of car parking to serve the proposed development is of particular concern to the observers. They contend that under provision of parking on site will lead to an overspill into the surrounding area which would be to the detriment of existing residents, pedestrians and cyclists.
- 7.6.8. The material submitted with the application/appeal identifies that the proposed development will be served by the following car parking provision: - 96 no. resident parking spaces at basement level and 3 no. visitor car parking spaces at grade. The proposed development, as originally lodged, achieves a car parking rate of 1 car parking spaces per apartment. The site is located within Parking Zone 2, as identified within Map T2 of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, and a maximum of 1 space per 1 and 2 bedroom apartments is specified in Table 12.5 for this zone. The proposed development is therefore consistent with the residential parking requirements outlined in the Dún Laoghaire-Rathdown County Development Plan 2022-2028.
- 7.6.9. The Planning Authority's Transportation Planning Section were satisfied with car parking provision from a numerical perspective but recommended that further information be requested in relation to delineation of visitor car parking spaces, the provision of a car share parking space and provision/future facilitation of electrical vehicle charging points. As part of the grounds of appeal, the appellant submitted additional information and revised plans in response to items raised by the Planning Authority's internal departments in their commentary on the application. In the context of car parking provision, this additional information/revised plans included revised plans which clearly delineated visitor parking spaces and provided an additional car sharing space and 2 no. additional EV charging spaces at the basement level.

- 7.6.10. In terms of the suitability of the quantity and design of the proposed car parking area, while the concerns of the observers are noted, it is my view that having regard to the site's central and/or accessible urban location/proximity to public transport, its proximity a range of services and amenities, and the proposed provision of car share/club spaces on site, I am satisfied that sufficient car parking has been provided in this instance and the proposed development would not result in overspill onto the surrounding road network.
- 7.6.11. With regards to bicycle parking provision, the development as originally lodged, is served by 176 no. resident (long stay) bicycle parking spaces at basement level and 36 no. visitor (short stay) bicycle parking spaces provided at grade. The quantum of bicycle parking provided is in excess of the requirements set out in Section 12.4.6 of the current development plan and the Apartment Guidelines (2022).
- 7.6.12. The Planning Authority's Transportation Planning Section were satisfied with the quantity of bicycle parking spaces provided but raised concerns about the overall proportion and reliance on stacked cycle parking spaces ('Sheffield' cycle parking spaces being preferred) and the absence of cargo bike parking spaces and recommended that further information be requested in this regard. I share some of the concerns expressed by the Planning Authority's Transportation Planning Section regarding the utilisation of racks for resident bicycle parking/the absence of 'Sheffield' style bike racks. I am satisfied however, that the provision of cargo bike parking spaces and swapping out of the proposed stacked cycle parking spaces for 'Sheffield' style bike racks can be appropriately dealt with by way of condition of planning permission, should the Board be so minded to grant permission for the proposed development, given the fact there is a surplus of bicycle parking spaces provided.
- 7.6.13. In terms of design of the visitor bicycle parking space, the provision of sheltered visitor spaces adjacent to the building entries and adjacent to the proposed visitor car parking are considered to be appropriate locations in terms of accessibility and passive surveillance.

7.6.14. The proposed development also incorporates 10 no. motorcycle parking spaces at basement level which is in excess of the requirements set out in Section 12.4.7 of the current Development Plan.

## **7.7. Open Space and Tree Conservation**

### Open Space Provision

7.7.1. This application was lodged prior to the adoption of the Dun Laoghaire Rathdown Development Plan 2022-2028. Under the new Development Plan there are more onerous requirements for residential development applications in terms of public open space provision. Section 12.8.3.1 of the recently adopted Development Plan 2022-2028 requires that, in the context of new residential developments in existing built up areas, 15% of the site area be reserved for public open space provision (a 5% increase on the default 10% requirement previously specified in the Dun Laoghaire Rathdown County Development Plan 2016-2022). It goes on to acknowledge that in certain instances, for example in the context of high density urban schemes and/or smaller urban infill schemes, it may not be possible to provide this standard of public open space and instead a development contribution will be sought.

7.7.2. The proposed development is devoid of public open space. This is considered appropriate in this instance given the topography of the subject site and the extensive public open space featuring in the wider area. It is recommended that the Board attach a suitably worded condition requiring payment of a financial contribution, including in lieu of public open space provision, in accordance with the Dún Laoghaire Rathdown County Council Development Contribution Scheme 2016-2020. It is noted that in the context of development contributions more broadly, the proposed Part V units to be provided as part of the development fall under the exemptions listed in the development contribution scheme and the subject site is located outside the applicable catchment areas relating to the Section 49 Supplementary Development Contribution Schemes (LUAS Line B1 and Glenamuck Distributor Road).

### Tree Conservation

7.7.3. The subject site's northern, southern and western boundaries feature heavy tree planting/vegetation. An objective '*to protect and preserve trees and woodlands*'

applies to the subject site, pursuant to the Dun Laoghaire Rathdown County Development Plan 2022-2028. Therefore, tree conservation require consideration in the context of the subject application. Section 12.8.11 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 asks that new developments have regard to objectives to protect and preserve trees and woodlands and that new developments be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows.

7.7.4. The third party appellant argues that 2 no. additional refusal reasons, regarding resultant tree loss, are merited. One in relation to their removal's ecological impacts, in particular on the heronry, and a second in relation to their removals resultant loss of embodied carbon. They also contend that the proposed removal of 53 no. trees also materially contravenes the Development Plan. The observers have also raised concerns about the level of tree/vegetation removal proposed and the resultant impacts on birds/wildlife. They contend that the wildlife and bird surveys carried out on site are too old.

7.7.5. The application was accompanied by an Arboricultural Report, prepared by Charles McCorkell. A total of 133 no. trees and 10 no. groups of trees were surveyed in February 2020 and October 2021. In the context of the 133 no. trees and 10 no. groups of trees featuring on the site, it was proposed to remove 43 no. trees (29 no. to facilitate the development and 14 no. for arboricultural reasons due to poor health), 5 no. groups of trees and a small section of woodland, retaining 90 no. trees and 10 no. groups of trees. Further to this, as illustrated in the Proposed Landscape Plan and detailed in the Planting Schedules, (Drawing Nos. 243-042-PL610 and 243-042-PL622, both prepared by Downey) submitted with the application it was proposed to plant 44 no. additional trees as part of the subject proposal.

7.7.6. Based on the arboricultural material/landscape proposals submitted with the application and my own site visit, I am satisfied that the level of tree retention/loss resulting from the proposed development is acceptable in this instance, having regard to the leafy character of the site and the objective '*to protect and preserve trees and woodlands*' applying to the subject site. Having regard to the foregoing, it is recommended that the Board include conditions requiring that tree protection fencing



be erected, major roots be protected/branched be retained during excavation/construction works and tree felling be suitably timed.

7.7.7. The issue of material contravention as raised by third parties does not arise in my opinion.

## **7.8. Ecology/Biodiversity/Wildlife**

7.8.1. A number of ecological sensitives affecting the site have been identified by the applicant. In light of this, the application is accompanied by an Appropriate Assessment Screening and Natura Impact Statement and an Ecological Impact Assessment (inclusive of a Bat Fauna Impact Assessment, a Bat Assessment Report and a Report on Heronry), both prepared by Altemar Marine & Environmental Consultancy. Of particular interest to the site are the impacts to bats and herons, both are recorded as present in the general area and on site. The Ecological Impact Assessment and Bat/Heron Reports highlight impacts and outlines mitigation measures.

### Bats

7.8.2. All Irish bats are protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat included under Annex II also). Upon review of the Bat Fauna Impact Assessment submitted with the application (included as an appendix to the Ecological Impact Assessment), bat surveys were carried out in August 2020, September 2021 and January 2022 and a Bat Fauna Impact Assessment and a Bat Assessment Report were submitted with the application (included as appendices to the Ecological Impact Assessment). The most recent surveys (carried out in September 2021 and January 2022 and detailed in the Bat Fauna Impact Assessment) identified three bat species (Lesser Noctule, Soprano Pipistrelle and Common Pipistrelle) using the development site for foraging but located no roosts, which is in line with an earlier survey for the site.

7.8.3. The Ecological Impact Assessment accompanying the application outlines a series of mitigation measures, including the carrying out of a pre-construction survey for bats and the adoption of a sensitive lighting design. The Ecological Impact Assessment concludes that *‘following the implementation of mitigation measures outlined, the development would not give rise to any significant effects. The construction and*

*operation of the proposed development will not significantly impact on, the conservation objectives of qualifying interests of Natura 2000 sites, aquatic biodiversity, bats and the heronry on site*'. I consider these mitigation measures to be reasonable in light of the survey/report finding and recommend that if permission is being granted for the proposed development, a suitably worded condition requiring the implementation of these mitigation measures be attached. It is worth noting that the Planning Authority's Biodiversity Officer did not raise any concerns regarding the proposed development's impact in terms bats but rather recommended the inclusion of a series of conditions regarding mitigation measures/surveys should permission was granted.

#### Heronry

7.8.4. It is understood that the northern part of the subject site forms part of a heronry. The Third-Party Appellant and a no. of observers have raised concerns about the proposed developments potential impact on herons featuring on the subject site, particularly in light of the extent of tree removal proposed. In this regard, the First Party Appellant argues that the potential impact of the development on the heronry can be adequately managed through appropriate mitigation measures, as outlined in the Construction and Environmental Management Plan accompanying the application. Further to this, in the context of the surveys carried out, both the Planning Authority and observers contend that they are old or out-of-date.

7.8.5. Turning my attention firstly to the adequacy of the heronry survey data. The application is accompanied by a Report on Heronry, prepared by John Fox. It details that weekly or monthly surveys were carried out between May 2018 and May 2019, with 2 no. additional visits carried out in August 2020. The Guidelines for Ecological Impact Assessment in the UK and Ireland (2018, amended 2022), published by the Chartered Institute of Ecology and Environmental Management, comprise of good practice guidelines in Ecological Impact Assessment (EcIA) relating to terrestrial, freshwater, coastal and marine environments in the UK and Ireland. Section 3.5 states that "*any EcIA therefore requires the identification of the likely baseline conditions at some point in the future, based on data collected in the past. In the majority of cases, ecological data are likely to have been collected within one or two years prior to an EcIA being written and development activities may take place one or two years after*". As the subject planning application was lodged with the Planning Authority in January 2022,

the surveys conducted in the context of heronry are consistent with the timeframes outlined.

7.8.6. I now turn my attention to the proposed development's potential impact on herons. It is worth noting that herons are not listed as a Qualifying Interest for any of the Special Protection Areas or Special Area of Conservation proximate to the subject site, as is evident from the table subsequently included in Section 8.0 of this report. During my site visit, I did not observe a single heron perched or in flight nor did I seek out nests and cannot therefore confirm nesting sites on the lands concerned. Therefore, in this regard I am guided by the material produced by the applicant, which I consider to be relevant and reasonable. Part of the Heronry occupies part of the land along the eastern side of the subject site, more particularly along the western side of the access road, and comprises of 3 no. trees, 1 no. Monterey Cypress (tree designed T25 in the application documentation) and 2 no. Deodar Cedars (trees designed T23 and T24 in the application documentation). During the first survey period, between 0 and 13 Grey Herons were recorded on site and during the two August 2020 visits, between 0 and 11 Grey Herons were recorded on site. These herons were roosting as opposed to nesting on site. The presence of Little Egrets was not recorded in either survey period. The applicable trees are located outside the 'developable area' involved in the subject proposal and are to be retained.

7.8.7. Both the Ecological Impact Assessment and Outline Construction Management Plan Report accompanying the application outline a series of mitigation measures, including the installation of a 'raised protection system' based on the use of Cellweb TRP to reduce impacts of traffic movements on the Monterey Cypress, consideration regarding the timing of demolition/construction work proximate to this tree, screening of construction apparatus proximate to this tree and the positioning of noisy equipment relative to this tree. As previously outlined, the Ecological Impact Assessment concludes that subject to implementation of the mitigation measures, the development would not give rise to any significant effects including in relation to herons. I consider the mitigation measures outlined in relation to the Monterey Cypress to be reasonable. I recommend that if the Board are so inclined to grant permission that a suitably worded condition be attached and that the mitigation measures be extended to include the 2 no. Deodar Cedars. It is worth noting that the Planning Authority's Biodiversity Officer did not raise any concerns regarding the proposed development's

impact in terms of the heronry but rather recommended the inclusion of a series of conditions regarding mitigation measures should permission was granted.

#### **7.9. Built Heritage**

7.10. A small part of the site, more specifically the northern end of the access road off Carrickbrennan Road, is located within the Monkstown Architectural Conservation Area and the western part of the subject site abuts the curtilage of Dalguise House which is a Protected Structure. Therefore, consideration of the impact of the proposed development in terms of built heritage, is required in this instance. Although the Dun Laoghaire Rathdown County Development Plan 2016-2022 has expired in the intervening period since this application was determined, I note similar policies pertaining to Architectural Conservation Areas and new development within an ACA feature in the recently adopted Dun Laoghaire Rathdown County Development Plan 2022-2028, in Sections 11.4.2.1 and 12.11.4, respectively. Further to this, part of the subject site continues to form part of the Monkstown Architectural Conservation Area and Dalguise House remains a Protected Structure. Therefore, the impact of the proposed development being constructed on site still requires consideration under the Development Plan in the context of the subject application. Further to this, the appropriateness of the proposed development requires consideration in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

7.10.1. No works are proposed within the part of the site falling within the boundary of the applicable ACA. In the context of works proposed in the remainder of the site, the proposed buildings will be more visible than the existing buildings on site, due to their six-storey height/massing. However, as the proposed buildings are setback c. 140 metres from the ACA boundary and due to the topography, tree cover and buildings featuring in the intervening space, there will be very limited views of the proposed blocks in the context of the Monkstown Architectural Conservation Area. This is best illustrated by Views 1 and 5 featuring in the Photo Montages, prepared by Digital Dimensions, which accompany the application.

7.10.2. In the context of Dalguise House, the proposed development is located c. 125 metres from this Protected Structure. The subject site flanks the eastern boundary of

this neighbouring site for a very short distance, essentially flanking its north-eastern corner. Given the separation distance that exists between the proposal and the Dalguise House and the tree cover featuring in the part of the site abutting this Protected Structure's curtilage, there will be very limited views of the proposed blocks.

7.10.3. Therefore, in light of the foregoing, I am satisfied that the proposed development, will not detract from the character or the special interest of the Monkstown Architectural Conservation Area or Dalguise House.

## **7.11. Drainage and Flood Risk**

### Drainage

7.11.1. Third party observers claim that the area's sewerage/drainage system capacity. As outlined previously in Section 3.2.2, Dun Laoghaire Rathdown County Council's Drainage Planning Section requested that additional information be requested in relation to surface water outfall discharge rate, the attenuation strategy, maintenance access to the green roofs and the provision of a flap valve. I note they did not recommend the application be refused, but rather that the aforementioned information be requested.

7.11.2. In response to issues raised, the first party applicant's appeal submission is accompanied by a revised Engineering Services Report and engineering drawings, prepared by Lohan & Donnelly Consulting Engineers, which considers the request for a lower surface water outfall discharge rate, clarifies the attenuation provision in terms of method/volume, elaborates on the proposed maintenance approach/access arrangements for the green roof systems proposed as part of the development and incorporates the requested flap valve.

7.11.3. Having considered the information provided with the first party appeal, I am satisfied that the drainage items raised by the Planning Authority could be addressed by way of condition, should the Board be so minded to grant permission for the proposed development. I note that Irish Water's in their submission on the application raised no objection subject to the inclusion of standard conditions. Having regard to the above and the urban/serviced nature of the subject area, I consider it would be unjustified to refuse permission on the basis of sewerage/drainage system capacity.

## Flood Risk

7.11.4. In terms of assessing potential flood risk, I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) which sets out a sequential test for assessing flood impact. The proposed residential development would constitute a highly vulnerable development in accordance with the Table 3.1 of these guidelines. Table 3.2 of the guidelines outlines that such highly vulnerable development is appropriate in areas falling within Flood Zone C and in Flood Zones A and B subject to the passing of a Justification Test. In terms of local planning policy, Flood Zone Map No. 3 included in the Dun Laoghaire Rathdown County Development Plan identifies the area to the immediate east of the subject site's access point an area of flood risk concern in regards to fluvial-surface water. This flood risk is understood to relate to the Stradbrook Stream (also known as the Monkstown Stream) which flanks the site's northern boundary and flows from west to east through culvert under Richmond Green). The planning application was accompanied by a Stradbrook Stream Flood Study Report and a Flood Risk Assessment, both prepared by Lohan & Donnelly Consulting Engineers.

7.11.5. The third party appellants and a no. of observers have raised concerns regarding the significant flood risk on neighbouring properties posed by the proposed development. The third party appellants go on to argue that an additional refusal reason regarding the same is merited, in their view, given the absence of appropriate research/modelling of flood risk and given the limited capacity of the Richmond Green culvert. Upon review of the material accompanying the application, Dun Laoghaire Rathdown County Council's Drainage Planning Section recommended that additional information be requested from the applicant, including revised cross sections of the Monkstown Stream extending to the building footprint/showing existing and propose ground levels, in the context of flooding. They also asked that, in anticipation of the completion of the catchment study of the Monkstown Stream currently being carried out, the proposed modifications to the existing culvert arrangement not be carried out and the proposed development not be reliant on the installation of the applicable pipes.

7.11.1. I will turn my attention firstly to the issue of flooding in the context of the Richmond Green culvert given it was specifically raised by the third party appellants.

With regards to the existing situation on the subject site, the site currently discharges surface water runoff directly to the Stradbrook Stream without any attenuation, the existing site being devoid of any form of SUDS to reduce surface water from the site. The proposed development incorporates surface water attenuation for a 1% AEP (100 year event), as well as green roof systems/podium areas which reduce overall runoff from the site. The Stradbrook Stream Flood Study Report lodged with the application includes an in-depth assessment of potential flooding in the context of the Stradbrook Stream. With regards to the capacity of the Richmond Green culvert, the report notes that following widespread flooding which occurred in 2011 flood alleviation works were undertaken by Dun Laoghaire Rathdown County Council in 2012 to divert high flows overland to the downstream section of the Stradbrook Stream, allowing for bypassing of the restrictive culvert. In preparing the report, a hydraulic model was produced to determine the impact of a 1 in a 100 and a 1 in 1000 year flood event would have on the proposed development and the adjacent area. This hydraulic analysis demonstrates that neither a 1 in a 100 or a 1 in 1000 year flood event will affect the proposed development, however, in either flood event overtopping of the road running adjacent to the culvert will occur. To mitigate any potential risk posed by overtopping of the stream, it is proposed to provide additional flood alleviation measures (the installation of 2 no. 600mm diameter pipes) to improve the hydraulic capacity of the existing Richmond Green culvert and limit the risk of overland flows by bypassing the restrictive culvert during extreme events.

- 7.11.1. In response to the Drainage Planning Section's commentary, the first party appeal is accompanied by a revised cross sections of the Monkstown Stream as well as additional engineering drawings, prepared by Lohan & Donnelly Consulting Engineers. This material illustrates that the cross-sectional profile of the stream subject to elevated flood waters is not altered in any way as part of the proposed development. With regards to the Drainage Planning Section's request that the 2 no. 600mm diameter pipes not be relied upon in the context of potential flooding, I note that the hydraulic analysis carried out in preparing the Stradbrook Stream Flood Study Report evaluated two scenarios – the proposed development's impact in light of the pipes' installation and without their installation. The analysis carried out showed that no surrounding property will be impacted upon by a 1 in a 100 or a 1 in 1000 year flood event in the absence of the proposed flood alleviation measures. The impact of the

flood alleviation measures is confined solely to the access road. Therefore, I am satisfied that if the installation of 2 no. 600mm diameter pipes is omitted as requested by the Planning Authority's Drainage Planning Section, the proposed development will not have a negative impact on flooding in the context of the culvert. If the Board is inclined to grant permission, it is recommended that a condition be attached requiring the applicant consult with the Planning Authority regarding flood alleviation works proposed in the context of the culvert.

7.11.2. The Flood Risk Assessment lodged with the application looks at the issue of flooding more broadly. It identifies the subject site as being located in a Flood Zone C area and in an area not vulnerable to tidal/coastal flooding during a 1 in 200 year or 1 in 1000 year Flood Event, fluvial flooding during a 1 in 1000 year Flood Event, pluvial flooding during a 1 in 1000 year Flood Event or not predicted to flood due to ground water flooding. They conclude that the risk of flooding at this site and the risk of flooding due to the development of this site is low in their view and a Stage 3 assessment was not considered necessary. Having examined the OPW website ([www.floodinfo.ie](http://www.floodinfo.ie)), I find the assessment provided in the Flood Risk Assessment, prepared by Lohan & Donnelly Consulting Engineers, to be accurate.

7.11.3. Having considered the information available/provided by the applicant, I am satisfied that, given its small scale and location within an established residential area in a Flood Zone C area, the proposed infill development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

## **7.12. Other Matters**

7.12.1. *Part V* – 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. The applicant's Part V proposals (as originally submitted with the application) comprise the provision of 9 apartments (10%) to Dun Laoghaire-Rathdown Council, at ground, first and second floor levels of Block A and B in the proposed development. The Supporting Planning Statement accompanying the application advises that the applicant has engaged in Part V discussions with Dun Laoghaire County Council and that an agreement in principle has been reached. The specific details regarding this agreement



will require further liaison with the Planning Authority. I am satisfied however, that this matter could be appropriately dealt with by way of condition of planning permission, if the Board is inclined to grant permission.

7.12.2. *Compliance with Fire Regulations* - The observations on the grounds of appeal argue that the emergency and fire services access provided is inadequate and give rise to fire safety compliance issues. The requirement of obtaining a fire safety certificate is assessed under a separate regulatory code to that of planning, and as such is not a matter for the Board in its deliberations of this application. However, the application is accompanied by an autotracking drawing for fire tenders, prepared by Lohan & Donnelly Consulting Engineers, which illustrates how a 10.2-metre-long fire tender vehicle can access both blocks.

7.12.3. *Childcare Facility* - Concern was expressed by the Planning Authority and third party appellant, regarding the lack of a childcare facility within the proposed development. The Planning Guidelines for Childcare Facilities (2001) requires one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. The Apartment Guidelines, 2022, provide some further guidance in this regard. They state that the threshold for provision of childcare in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. By way of clarification it states that 1 bed or studio units should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with 2 or more bedrooms. The proposal does not include provision for a childcare facility. This is considered appropriate in this instance given the no. of 2-bedroom dwellings proposed (48 no.) falls below the 75-unit threshold, all other dwellings proposed comprising of 1-bed apartments.

7.12.4. *Retaining Walls and Excavation* - Concerns have been raised by the third party appellant and a no. of observers regarding the potential impacts excavation needed to accommodate the basement and construction of development will have on adjacent houses, particularly given the proposed development's proximity to/proposed removal of part of the existing retaining walls. The plans detail that the westernmost and easternmost part of the existing retaining wall is to be demolished to facilitate the

proposed development, with a replacement retaining wall to be provided slightly further south. The application is accompanied by an Outline Construction Management Plan Report, prepared by Lohan & Donnelly Consulting Engineers (I note a revised Outline Construction Management Plan Report, prepared by Lohan & Donnelly Consulting Engineers, accompanies the appeal submission. The contents remain the same in the context of Section 3.5 in this iteration of the document). At Section 3.5, it states that, *'as part of the design development process, a feasibility study has been carried out to investigate the required sequence of works for formation of the structure within the sloped southern embankment. On foot of this study, report 21115-LDE-ZZ-ZZ-RP-003 has been produced by Lohan & Donnelly, which sets out envisaged sequences and measures for enabling works and permanent works of a scale required to achieve the design intent. As set out in more detail in the above referenced report the works shall involve the formation of reinforced concrete retaining walls within the embankment, in order to retain the elevated portions of the site along the southern boundary. Bored piling creates minimum vibrations and is a well-established and safe means of retaining wall construction close to property boundaries and existing structures.'* Report 21115-LDE-ZZ-ZZ-RP-003 referenced in the above report excerpt comprises the Stradbroke Stream Flood Study Report accompanying the application. In my view, sufficient information has been provided at this stage to allay any major concerns regarding this matter and the issue of excavation/the construction of the required retaining wall should not form a basis of refusal. As is common practise, more detailed technical specification and working drawings are required in the post-planning phase of development. I am of the view that if the Board is of a mind to grant permission that this matter can be addressed by way of a condition requiring a detailed Method Statement for the applicable works prior to the commencement of works, as well as a Construction Management Plan and Construction and Demolition Waste Management Plan.

## **8.0 Appropriate Assessment Screening**

### **8.1. Introduction**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning and Development Act, 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- Appropriate assessment of implications of the proposed development on the integrity of each European site.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The application is accompanied by an Appropriate Assessment Screening & Natura Impact Statement, prepared by Altamar Marine & Environmental Consultancy. I have had regard to the contents of same. The Appropriate Assessment Screening component of this assessment concluded that given the nature of the demolition/construction works, the fact that the Stradbrook Stream flows through the site before discharging to Dublin Bay, it is considered that the potential Zone of Influence of the proposed works extends beyond the site to include the Stradbrook Stream, South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. In the absence of mitigation measures, it considered there to be potential for petrochemicals, hazardous material or silt laden material to enter these marine environments. Adopting a precautionary approach, a Natura Impact Assessment (NIS) was deemed to be required in respect of the effects of the projects on nearby SPA and SAC sites. Therefore, a NIS (Stage 2 Appropriate Assessment) was prepared and

submitted. This assessment is informed by the other environmental reports accompanying the application, including the Engineering Services Report, Flood Risk Assessment, Stradbroke Stream Study Report, Ecological Impact Assessment, Outline Construction Management Plan and Outline Construction Waste Management Plan and Waste Management Plan. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used.

## **8.2. Stage 1 AA Screening**

This part of south Dublin is a built-up area and is predominantly composed of artificial surfaces, although parks and gardens do provide some semi-natural habitat. Specific details regarding the subject sites locational context are provided in Section 1.0 of this report. The site features a former Nursing Home/associated buildings and the majority of the surface is artificial, with the exception of landscaped areas featuring along the western, northern and southern boundaries, as confirmed by my site inspection on 26<sup>th</sup> July 2023. Currently, there is no attenuation of rain run-off from the buildings/hard surfacing on site and this enters the nearby Stradbroke Stream. This stream is characterised by artificial embankments along the stretch abutting the subject site and is culverted at its eastern end. Aerial photos/mapping indicate that it remains culverted until it reaches its outfall at Dun Laoghaire.

The proposed development comprises demolition of all existing structures on site and the construction of a residential development of 96. no apartments in two six storey blocks. In accordance with the Greater Dublin Strategic Drainage Study, this development will incorporate sustainable drainage systems (SUDS) that will appreciably reduce the current run-off rate. These measures are not specifically included to reduce or avoid an effect to any Natura 2000 site but rather are standard measures which are incorporated into all development projects. Please refer to Section 2.0 of this report for further details regarding the proposed development.

The site is not located within any Natura 2000 site. It does not contain any habitats listed under Annex I of the Habitats Directive. The site is not immediately connected to any habitats within European sites. There are 18 no. European sites located within 15km of the site (as outlined in the following table), however, there is no prescribed

radius to determine which Natura 2000 sites should be studied and this depends upon the zone of influence of the project.

European Site (site code)	Distance to Development Site	List of Qualifying Interest/Special Conservation Interest
South Dublin Bay SAC (000210)	c. 350m (c. 250m from the entrance to the access road off Carrickbrennan Road).	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
South Dublin Bay and River Tolka Estuary SPA (004024)	c. 350m (c. 250m from the entrance to the access road off Carrickbrennan Road).	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Roseate Tern ( <i>Sterna dougallii</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194] Wetland and Waterbirds [A999]
Rockabill to Dalkey Island SAC (003000)	c. 4.2km	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]
Dalkey Islands SPA (004172)	c. 4.2km	Roseate Tern ( <i>Sterna dougallii</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]

North Dublin Bay SAC (000206)	c. 5.8km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
North Bull Island SPA (004006)	c. 5.8km	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
Howth Head SAC (000202)	c. 8.9km	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Ballyman Glen SAC (000713)	c. 9.4km	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>

Knocksink Wood SAC (000725)	c. 9.4km	Petrifying springs with tufa formation (Cratoneurion) [7220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
Howth Head Coast SPA (004113)	c. 10.1km	Kittiwake (Rissa tridactyla) [A188]
Wicklow Mountains SAC (002122)	c. 10.2km	Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with Erica tetralix [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Calaminarian grasslands of the Violetalia calaminariae [6130] Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] Blanket bogs (* if active bog) [7130] Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210] Siliceous rocky slopes with chasmophytic vegetation [8220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Lutra lutra (Otter) [1355]
Wicklow Mountains SPA (004040)	c. 10.5km	Merlin (Falco columbarius) [A098] Peregrine (Falco peregrinus) [A103]
Baldoyle Bay SAC (000199)	c. 11.2km	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310]

		Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Baldoyle Bay SPA (004016)	c. 11.3km	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Wetland and Waterbirds [A999]
Bray Head SAC (000714)	c. 11.4km	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
Ireland's Eye SPA (004117)	c. 12.9km	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200]
Ireland's Eye SAC (002193)	c. 13.3km	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Glenasmole Valley SAC (001209)	c. 14.4km	Semi-natural dry grasslands and scrubland facies on calcareous substrates ( <i>Festuco-Brometalia</i> ) (* important orchid sites) [6210] Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410] Petrifying springs with tufa formation ( <i>Cratoneurion</i> ) [7220]

Having screened the 18 no. Natura 2000 sites within a 15km radius, the AA Screening Assessment carried out by the applicant considered the subject site to be within the Zone of Influence of 2 no. Natura 2000 sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA) given the hydrological connection that exists via the Monkstown Stream (also referred to as the Stradbroke Stream) which flows along the site's northern boundary. No other Natura 2000 Sites were deemed to fall within the zone of influence of this development, given their distance from the development



site and the lack of an obvious pathways between the development site and applicable SPA/SAC. I am satisfied with the conclusion reached in this regard.

In assessing the proposed developments potential impact on these 2 no. Natura 2000 sites, regard must be had to their Specific conservation objectives. These are outlined in the below table:

European Site (site code)	Specific conservation objectives
South Dublin Bay SAC (000210)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected
South Dublin Bay and River Tolka Estuary SPA (004024)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

### 8.3. Potential Effects on Designated Sites

As previously discussed, the application site does not fall within the boundary of any Natura 2000 site, therefore there are no Natura 2000 sites at risk of direct habitat loss impacts as a result of the proposed development. There is an indirect link from the subject site to the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA via the Stradbrook Stream, which runs along the northern boundary of the site, as well as indirect pathways through stormwater sewers and through foul sewers via the Ringsend Waste Water Treatment Plant.

The development will be supplied with fresh water via a mains supply. The foul effluent associated with the proposed apartments will drain, via an existing combined sewer laid below the bed of the Stradbrook Stream, to the Ringsend Wastewater Treatment Plant for treatment and ultimately discharge to Dublin Bay. This Wastewater Treatment Plant is currently being upgraded, having received planning permission in 2019 to increase treatment capacity. Irish Water have reported that this system can facilitate the proposed development. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway. It is my view that the foul discharge from the site

would be insignificant in the context of the overall licenced discharge at Ringsend Wastewater Treatment Plant, and thus its impact on the overall discharge would be negligible.

The proposed surface water drainage system would introduce a variety of sustainable urban drainage system (SuDS) measures to the subject site. These comprise a marked improvement from the existing situation on site and would have a positive impact on drainage from the subject site/significantly enhance the quantity/quality of surface water leaving the site. As per the existing arrangement on site, surface water would eventually drain to the Stradbrook Stream. The Stradbrook Stream ultimately discharges to Dublin Bay. This surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and these Natura 2000 sites. The Stradbrook Stream is not of high fisheries value as it is extensively culverted along much of its length. The habitats and species of the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are c. 350 metres downstream of the site and water quality is not a target for the maintenance of any of the qualifying interests within either Natura 2000 site.

During the construction phase, standard pollution control measures would be adopted. These measures are standard practices for redevelopment sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature/scale of the development and the dilution occurring as a result of the distance/volume of water separating the application site from the applicable Natura 2000 sites.

When operational, the scheme will feature attenuation measures which would have a positive impact on drainage from the subject site and comprise a marked improvement from the existing situation on site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS). It is standard practice that SuDS are included in all projects and they are not specifically included to reduce or avoid any effect on a designated Natura 2000 site.

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

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

to result in a significant increase in noise and disturbance over the existing levels.

As previously discussed, the Appropriate Assessment Screening carried out by the applicant concluded that given the nature of the demolition/construction works, the fact that the Stradbroke Stream flows through the site before discharging to Dublin Bay, it is considered that the potential Zone of Influence of the proposed works extends beyond the site to include the Stradbroke Stream, South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. In the absence of mitigation measures, there is considered to be potential for petrochemicals, hazardous material or silt laden material to enter these marine environments. Adopting a precautionary approach, a Natura Impact Assessment was deemed to be required in respect of the effects of the projects on this SPA and SAC. Therefore, a Natura Impact Statement (Stage 2 Appropriate Assessment) was prepared and submitted.

I have examined the 'mitigation measures' outlined, in Table 8 of the NIS, to prevent impacts on Natura 2000 sites. They generally comprise of construction best practice/control measures detailed in the Outline Construction Management Plan and Outline Construction Waste Management Plan & Waste Management Plan accompanying the application. Although a Project Ecologist is to be appointed/consulted in the context of drainage during works, it is specifically noted that they will not be formulating new mitigation measures for the purposes of protecting any European Site but rather ensuring implementation of mitigation measures outlined in the application material. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site and that those outlined constitute the standard established approach to construction works on greenfield/brownfield lands. The adoption of such measures would be standard practice for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site.

#### **8.4. Cumulative/In-Combination Effects**

The proposed development would provide housing on lands identified for development through the land use policies of the Dun Laoghaire Rathdown County Development Plan 2022-2028. This development plan was adopted in 2022, the Planning Authority

having carried out Appropriate Assessment, as well as Strategic Environmental Assessment, during its preparation which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 sites.

The applicants AA Screening Assessment, at Table 3, identifies 4 no. recent grants of planning permission in the vicinity of the proposed development (I note one of these is the SHD application relating to Dalguise House which subsequently had its grant of permission revoked). It concludes that in combination effects with other existing proposed development in close proximity would be unlikely, neutral, not significant and localised and no significant effects on Natura 2000 sites will be seen as a result of the proposed development in combination with other projects. I am satisfied with the conclusion reached in this regard.

#### **8.5. AA Screening Conclusion**

I have considered the material submitted by the applicant, including the Appropriate Assessment Screening & Natura Impact Statement and environmental reports outlined in Section 8.1, and the information regarding Natura 2000 sites contained on the NPWS website. Having considered this, and having regard to the nature/scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, it is my opinion that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), South Dublin Bay and River Tolka Estuary SPA (004024), or any Natura 2000 Site. The risk of watercourse contamination is extremely low and in the event that a significant pollution incident occurs in the context of surface water locally, it is reasonable to assume that this would be imperceptible to Natura 2000 sites given the applicable separation distances and the dilution that would have occurred as the surface water moved downstream. Therefore, contrary to the view of the applicant, I do not consider a Stage 2 Appropriate Assessment necessary in this instance and am satisfied that Stage 1 Appropriate Assessment is appropriate for all sites.

I note that the application included a NIS. In deciding to prepare and submit this, the applicant states that the precautionary principle was being applied. It is my opinion that the adoption of the precautionary approach is over cautious and unwarranted

in this instance. Upon review, the mitigation measures outlined to prevent impacts on Natura 2000 sites generally comprise of construction best practice/control measures detailed in the Outline Construction Management Plan and Outline Construction Waste Management Plan & Waste Management Plan accompanying the application. The adoption of such measures would be standard practice for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. I am satisfied that no mitigation measures pertaining specifically to potential impact to a Natura 2000 site have been proposed.

If the Board does not adopt the screening recommendation set out above, I deem sufficient information to have been included in the submitted NIS to allow a Stage 2 Appropriate Assessment to be completed.

## **9.0 Environmental Impact Assessment Screening**

9.1.1. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

Construction of more than 500 dwelling units; and

Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

9.1.2. It is proposed to provide 96 apartments across 2 no. blocks on the subject site which is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.95Ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The site to which this appeal pertains currently comprises a former nursing home premises/associated areas of hardstanding/car parking and is surrounding by residential uses. The provision of residential development on site would not have an adverse impact in environmental terms on surrounding land uses.

9.1.3. It is noted that the site is not designated for the protection of the landscape and the proposed development is not likely to have a significant effect on any European Site (as previously concluded in Section 8.0 of this report). A small part of the subject site falls within the Monkstown Architectural Conservation Area/abuts the curtilage of Dalguise House (which is a Protected Structure), however, as discussed in Section 7.9, I am satisfied that the proposed development will not negatively impact upon built/cultural heritage. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dun Laoghaire Rathdown County Council, upon which its effects would be marginal.

9.1.4. Having regard to the nature and scale of the proposed development and its location in a serviced urban area 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.

## **10.0 Recommendation**

10.1. Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reasons and considerations set out below.

## **11.0 Reasons and Considerations**

1. The Dun Laoghaire Rathdown Development Plan 2022-2028 (Policy Objective PHP27) seeks to create sustainable residential communities which contain a wide variety of housing and apartment types, sizes and tenures, in accordance with the Housing Strategy and Housing Need and Demand Assessment (HNDA). Based on the HNDA, Section 12.3.3.1 of the Development Plan requires that developments of the nature proposed contain a minimum of 20% three or more bedroom units and a maximum of 30% one-bedroom / studio units. These provisions are considered reasonable in accordance with Specific Planning Policy Requirement 1 of 'Sustainable Urban Housing: Design Standards for New

Apartments, Guidelines for Planning Authorities' issued by the Department of Housing, Local Government and Heritage (December 2020, updated December 2022). The proposed development comprises entirely of one and two-bedroom apartments and is devoid of three or more-bedroom units, which would materially contravene Development Plan policy in terms of unit mix and would, therefore, fail to adequately address the evidence-based housing needs of the local area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by virtue of its layout, massing, design and height would be out of character with the context of the site and would represent a visually obtrusive form of the development relative to its immediate environment, would constitute overdevelopment of the site and would be contrary to Policy Objectives PHP18, PHP20, PHP35 and the Building Height Strategy (contained in Appendix 5) of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) in terms of standards of urban design, architectural quality and place making outcomes at the scale of the relevant to site context. The proposed development provides an inadequate design response to this sensitive infill site and be contrary to the proper planning and sustainable development of the area.
3. Having regard to the design and layout of the proposed development, including the siting, height and massing of the proposed blocks and the limited separation distances provided to site boundaries involved in the proposed development, it is considered that the proposed development would have a negative impact on the residential amenities, by way of overbearing, and visual amenity of the properties to the immediate east, north and south of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed development by reason of the restricted outlook of/poor quality of the private amenity areas serving ground floor south-facing apartments particularly in Block B, and the extent of/proximity of retaining walls to the south and west of the site would seriously injure the residential amenities of future



occupants of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

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Margaret Commane  
Planning Inspector

9<sup>th</sup> November 2023