



An
Bord
Pleanála

Inspector's Report ABP 313618-22

Development

Development consisting of the demolition of the existing conservatory and extensions to the rear of the existing nursing home, the demolition of the mews building adjoining and its replacement by a new three-storey extension containing a new primary entrance to expanded and renovated nursing home, the change of use of No.6 from residential use to nursing home use, plus the alterations, extensions in part 3 storey, 2 storey and single-storey extensions to rear of No. 4, 5 and 6. The proposed development will comprise an additional 30 no. rooms for a total of 46 no. rooms and 49 no. bed spaces.

Location

4/5/6, Aclare Nursing Home, Tivoli Terrace South, Dun Laoghaire, Co. Dublin.

Planning Authority

Dún Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.	D21A/0739
Applicant(s)	Breege Muldowney Aclare Nursing Home
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third-Party
Appellant(s)	Graham & Fiona Mongey Anne Milner Cait Delaney Clare Duignan Ivan and Mary Sutton
Observer(s)	Frank Finnegan Colin Walsh Marina Byrne Tommy Walsh Clare Finnerty Margaret Kyne Delaney Stuart Kyne Delaney Constantine O'Leary
Date of Site Inspection	21 st July 2023
Inspector	Brendan Coyne

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1.0 Site Location and Description

- 1.1.1. The subject site, located on Tivoli Terrace South, consists of a pair of two-storey over-basement Victorian properties at Nos. 4 and 5, as well as No. 6, which is part of a pair of large two-storey over-basement properties connected to No.5 by a setback two-storey mews element. Currently, the properties at Nos. 4 and 5 are used as a nursing home called Aclare Nursing Home. Each property has its own front vehicular access point, and there is a combined car parking area in front that serves the nursing home. The nursing home at Nos. 4 and 5 features a long metal ramp along its eastern boundary with No. 6, providing wheelchair access to the front entrance. Both properties have two-storey returns to the rear, with No. 4 having a large glazed conservatory and lean-to, and No. 5 having a single-storey flat roof extension wrapping around its two-storey return. The rear gardens of these properties mainly consist of grass and are accompanied by several sheds along the western boundary. Side and rear boundaries are defined by walls c. 2-3m high. No. 6 also has a front car parking area accessed through a single vehicular entrance. It has a two-storey return located centrally to its rear and a rear garden.
- 1.1.2. The site is bound by Clifton Court, a three-storey apartment complex to the west, residential properties along Tivoli Road to the south, No. 7 Tivoli Terrace South (attached to no. 6) to the east, and a large field to the north. Tivoli Training Centre adjoins the field further to the northeast. Tivoli Terrace South is a one-way street with alternating pay and display on-street car parking on both sides. On-street parking is available east of the entrance to no. 6 and opposite Nos. 4 and 5 Tivoli Terrace South.
- 1.1.3. Clifton Court consists of four blocks, with the central two blocks extending towards the rear/south with setbacks from the adjacent side boundaries. The front and rear building lines of the eastern block align with the front and rear building lines of No. 4 within the application site. The block adjoining this is set back and extends to the south, with its rear eastern building line maintaining a setback of c. 9m from the side boundary shared with the appeal site. The apartment complex has car parking spaces at the front, accessible through two vehicular entrances. The character of the surrounding area is mostly residential, with Bloomfield Shopping Centre located c. 400m to the north-east and Dún Laoghaire shopping centre located c. 550m further to the north-east.

2.0 Proposed Development

2.1.1. The proposed development is described in the public notices as follows:

- Demolition of existing conservatory and extensions to the rear of the existing nursing home in No. 4 and 5.
- Demolition of the mews building adjoining No. 6 Tivoli Terrace South and its replacement with a new three-storey extension with a new primary entrance to the expanded and renovated nursing home.
- Change of use of No. 6 from residential to nursing home use.
- Alterations and extensions to the rear of No. 4, 5, and 6, including part 3-storey, 2-storey, and single-storey extensions.
- Addition of a basement area of c. 97 sq.m.
- The proposed development will comprise an additional 30 rooms for a total of 46 rooms and 49 no. bed spaces.
- Landscaped open space to the rear.
- New primary reception area and ancillary communal rooms, residents lounge, dining room, internal landscaped courtyards, and new lift shaft provision.
- 6 no. car parking spaces to the front of No. 4 and 5, including 2 no. disability accessible spaces.
- 10 no. bicycle spaces.
- Loading area and bin store.
- Alterations to the existing front boundary wall.
- Landscaping to the front of No. 6.
- Associated site works.
- Stated that the proposed development includes a greater setback from the boundaries and a reduction in the scale of the extensions in response to the recent decision of the Planning Authority under Reg. Ref. D21A/0154 dated 20th April 2021.
- The stated site area is 0.15 hectares

2.2. Decision

Dún Laoghaire-Rathdown County Council GRANTED permission for the proposed development subject to 13 no. Conditions. Noted Conditions include the following:

2. The windows serving the corridor on the proposed first and second floor plans, located on the rear (south) elevation, shall have obscure glazing, while the narrow panes of glazing within these windows shall be clear.
4. (a) The applicant shall arrange with DLRCC - Parking Control Section to make any necessary amendments to the 'Pay and Display' parking bays on Tivoli Terrace South due to the proposed revised vehicular entrances. The costs associated with this amendment will be the applicant's responsibility.
(b) The footpath in front of the revised vehicular entrances shall be dishd, strengthened, and reconstructed as required, at the applicant's expense, with the approval of the appropriate utility company and Planning Authority.
(c) The selected contractor shall comply with the outlined construction and management plans, including measures to avoid conflicts with traffic and pedestrians, and submit a detailed Construction Management Plan for approval.
(d) A Road Opening Licence shall be obtained from DLRCC Municipal Services Department before conducting any works on the public road/footpath.
(e) One of the proposed car parking spaces shall be designated as an Electric Vehicle Charging Space.
(f) In addition to short-stay cycle parking spaces, secure and covered long-stay cycle parking spaces shall be provided according to the Council's standards.
(g) A drying room or clothes rack shall be provided for walkers and cyclists to dry their clothes and equipment.
(h) The driveway/parking/hardstanding areas shall be constructed with sustainable drainage systems (SuDS) to prevent surface water discharge onto public areas, especially if gravel is used.
(i) Measures shall be taken to avoid conflicts between construction traffic and pedestrians/cyclists on Tivoli Terrace South.

- (j) The applicant is responsible for preventing mud, debris, and damage to public areas caused by site works, ensuring public safety and proper planning and development.
5. (a) Prior to the commencement of development, continuous monitoring stations for noise, vibration, and dust must be installed and maintained to measure and record the impact of site activities. Weekly reports shall be provided, and remedial measures shall be taken if necessary, to comply with recommended limits.
- (b) A Noise Management Plan demonstrating construction methodology and mitigation measures to minimise nuisance to neighbouring properties shall be submitted and approved prior to commencement of development.
6. (a) A Materials Source and Management Plan shall be submitted for agreement, detailing the use of recycled materials and future maintenance to support circular economy policies.
- (b) Records of construction waste shall be maintained and available for inspection, demonstrating proper tracking and disposal.
- (c) An appropriate rodent/pest control plan shall be implemented throughout the construction period and approved in writing by the Planning Authority.
- (d) An Operational Waste Management Plan shall be submitted, specifying waste storage and collection areas within the development's boundaries.
7. The disposal of surface water shall conform to the Planning Authority's requirements:
- (a) The proposed green roof shall be installed as specified in the FI response, designed in compliance with BS EN 12056-3:2000 and The SUDS Manual (CIRIA C753). The applicant shall establish a formal maintenance agreement with a professional contractor trained in green roof care.
- (b) All parking and hardstanding areas shall not discharge to the sewer but instead be locally infiltrated through gravel or a specially designed permeable paving system in accordance with Section 12.4.8 of the Dún Laoghaire Rathdown County Development Plan 2022-2028, for the sake of public health.

9. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts, external plant, telecommunication aerials, antennas, or equipment, shall take place above the roof parapet level, unless authorised by a separate grant of planning permission.
10. Prior to the commencement of the development, or as agreed in writing with the Planning Authority, the Developer shall make a payment of €2,293.76 to the Planning Authority. This payment is intended as a contribution towards the expenditure incurred or proposed to be incurred by the Planning Authority for the provision of surface water public infrastructure and facilities that benefit development in the Authority's area.
11. Prior to the commencement of the development, or as agreed in writing with the Planning Authority, the Developer shall make a payment of €52,478.72 to the Planning Authority. This payment is designated as a contribution towards the expenditure incurred or proposed to be incurred by the Planning Authority for the provision of Roads Public Infrastructure and Facilities that benefit development in the Authority's area.
12. The Developer shall, prior to commencement or as agreed in writing with the Planning Authority, make a payment of €34,039.04 to the Planning Authority. This payment represents a contribution towards the expenditure incurred or proposed to be incurred by the Planning Authority for the provision of community & parks public infrastructure, facilities, and amenities that benefit development in the Authority's area.

2.3. Planning Authority Reports

2.3.1. First Report (11/10/2021) – summarised under the headings below

2.3.1.1. Principle of the Development

- The site is zoned objective 'A', which aims to protect and improve residential amenity within the area.
- Residential-type development is permitted in principle on the site, subject to compliance with relevant policies and objectives.

- The specific use class of Residential Institutions, including nursing homes, is permitted in principle within the 'A' zoning objective.
- Section 8.2.3.4 (xiii) of the Dun Laoghaire-Rathdown County Development Plan provides criteria for assessing planning applications for nursing home facilities. Criteria stated.
- The subject site already has an established nursing home use and is located within a well-established residential area near Dun Laoghaire town. Therefore, the proposed development, including the change of use of No.6 to a nursing home, aligns with the location requirements and access to local services and amenities outlined in Section 8.2.3.4 (xiii).
- However, the impact on residential amenities, provision of open space, car parking, design, and the size and scale of the proposal within the existing context should be thoroughly assessed based on the neighbouring properties and surrounding area.
- The subject proposal differs from the previously refused application (P.A. Ref. D21A/0154), primarily regarding the setback of the rear extensions from the neighbouring properties.

2.3.1.2. **Re. Planning History**

- The proposed rear extensions' top floors are significantly reduced in length compared to the previous proposal.
- The general arrangement of the proposed rear extensions, demolition of existing structures, and construction of a new linking building remain similar to the previous proposal.
- The proposed new floor area is reduced compared to the previous proposal, with 1,499 sq.m in the current proposal compared to 1,790 sq.m in the previous application.
- The current proposal includes 30 additional bedrooms, totalling 46 bedrooms, whereas the previous proposal proposed to add 37 additional bedrooms, totalling 53 bedrooms.

- The number of bedspaces is reduced in the current proposal, with 49 bedspaces proposed, compared to 55 bedspaces in the previous proposal under P.A. Ref. D21A/0154.
- The main difference between the current and previous proposals lies in the reduction of the proposed built form and increased separation distances from the side and rear boundaries.
- On the eastern side elevation, the reduction in the first-floor area is achieved by removing certain elements, resulting in a shorter extension but maintaining a setback from the boundary.
- On the western side elevation, the first-floor area reduction is achieved by removing a stepped section and increasing the separation distance from the western boundary, along with a reduction in the extension's rear length.
- The previous application (D21A/0154) was refused due to concerns about the significant increase in bedrooms, the cumulative height, length, scale, and layout, leading to overdevelopment, shadowing impacts, and adverse effects on residential and visual amenities.
- The refusal also cited sections of the Dun Laoghaire-Rathdown County Development Plan related to nursing homes and non-residential uses.
- The current proposal addresses the reasons for refusal in terms of size, bulk, height, and layout, but further clarity is needed regarding the proposed open space for the nursing home.
- The previous proposal (P.A. Ref. D21A/0154) was assessed to have a significant shadow effect on the adjacent properties to the west and east sides during specific times in mid-June.
- In the current subject proposal, the reduced size of the development results in reduced shadow impacts compared to the previous proposal. However, the shadows still show marginal increases compared to the existing buildings and high stone wall boundaries.
- Notably, no Shadow Study analysis for the months of March and September has been submitted for the current proposal.

- It is recommended to request Further Information (FI) to include shadow analysis for both existing and proposed developments during March and September for a more comprehensive evaluation.
- The proposed retention and demolition of floor areas remain the same as indicated in the previous proposal (D21A/0154), with 561.76 sq.m proposed to be retained and 174.17 sq.m proposed for demolition in the current subject proposal.

2.3.1.3. **Compliance with Development Plan standards**

- The Planning Authority has concerns about the narrow windows on the proposed rear elevations of the rooms, noting that while they may limit overlooking of adjacent properties, they may also result in limited daylight for future residents. It is recommended that this issue be addressed through Further Information (FI) to ensure the amenity of the residents.
- The previous planning refusal under P.A. Ref. D21A/0154 cited issues related to the layout and provision of open space.
- The current proposal should comply with the requirements outlined in Section 8.2.8.2 (ii) of the Development Plan, which stipulates that adequate and suitable open space should be provided for nursing home facilities. This includes detailed open space and landscaping plans, a minimum of 15 sq.m. of open space per resident (unless otherwise agreed), consideration of already existing open space, and accessibility for all users with links to adjoining public footpaths.
- The current proposal includes a rear central courtyard that will be directly accessible to the new extensions and the residents.
- The location of the courtyard is generally acceptable, notwithstanding its relatively narrow width (c. 6.5m) and length (c. 16m) and in consideration of the layout and height of the surrounding structures and the number of proposed bedrooms and bed spaces. Its relatively small size is noted.
- The landscaped area to the front of the site would have limited amenity value due to its proximity to the front of the premises and the proposed emergency/loading entrance.
- The various elements within the landscaped area are mostly separated by different internal boundary treatments and features, such as stairs and walls.

- Having regard to the layout and height of the proposed rear extensions, and the established nature of the site in a well-served urban/suburban location, a shortfall in the quantum of open space may be considered acceptable in this instance.
- The applicant's documentation regarding the provision of open space is unclear. The stated external open space of approximately 750 sq.m. includes high-quality design rear courtyards and a front garden area, but it is uncertain which areas of the site this measurement applies to. Further Information should be requested to clarify and provide a clear breakdown of the allocated open space.
- The Environmental Health Officer (EHO) report recommends requesting Further Information regarding demolition plans, construction environmental management plans, waste management, and bin locations. The Applicant should address this by way of further information.
- The proposal involves the demolition of the existing mews located to the east of No. 6 Tivoli Terrace South and west of Aclare Nursing Home, as previously noted under D21A/0154 and D19A/0506 (ABP file no. ABP-306039-19).
- The proposal includes the replacement of the mews with a three-storey structure, intended to serve as the new primary entrance to the expanded nursing home.
- The new structure would have a contemporary flat-parapet roof and copper/similar-clad (dark-red colour hue) cladding, contrasting with the neighbouring buildings in terms of design and parapet-roof height.
- The current proposal indicates the removal of the three-storey rear return of No. 6, which features a large round-headed upper-floor window facing the rear and a flight of external steps. The demolition of this element is mentioned on some drawings but lacks a rationale or evaluation of its contribution to the overall structure. Further information is recommended to address this matter.
- The proposal also involves the re-arrangement of the front entrances, pillars, and boundary walls to Nos. 4, 5 & 6. Two vehicular entrances and one separate pedestrian entrance are proposed, with a relocated and widened vehicular entrance for No. 6. The existing bowed design front boundary wall of No. 6 appears to be mostly removed and re-aligned closer to the public footpath.
- It is noted that the bowed front boundary walls of No. 6 and No. 7 contribute to the distinctive character of the site's front boundary. However, the proposed new

vehicular entrance pillars, set slightly forward and aligned straight along the footpath edge, do not preserve the curved form of the roadside boundary. Retaining or replicating the bowed wall could be considered to maintain streetscape character or respect the modified boundary.

- The re-arrangement of the front boundary entrances, walls, and treatments may have a potential negative impact on the character and heritage of the streetscape. Further information is recommended to address this concern.
- There is a loss in detailing regarding the re-arrangement of the front boundary treatments to Nos. 4 & 5. A request for further information is made to retain or replicate the bowed design of the front boundary wall in some manner.
- The current proposal involves a significant enlargement and remodelling of the rear of the site, as well as the front curtilage.
- Consideration is given to the separation between blocks and separation distances outlined in the Dun Laoghaire Rathdown County Development Plan, 2016-2022, specifically Section 8.2.3.3(iv) for apartment development and Section 8.2.8.4(ii) for houses.
- The proposed rear extensions span almost the entire width of the three properties, including the side 'mews' of No. 6.
- The single-storey flat-parapet roof extensions at the rear have heights similar to the existing rear boundary walls.
- The separation distances to the rear boundary walls range from approximately 1.2m (at a pinch-point) to 3.29m.
- The separation distances from the proposed extensions to the west and east boundaries are generally acceptable, considering the close to three-storey height of the rear extensions.
- The upper floors of the central and east side rear extension wings have separation distances of c. 23-27m from the main rear elevations of the Tivoli Road houses to the south.
- Overall, the combined width, height, length, and scale of the proposed nursing home extensions, along with their separation distances from surrounding properties to the south, east, and west, are deemed visually acceptable and

unlikely to have serious negative visual or overbearing impacts on the neighbouring properties and amenity spaces.

- However, further information is recommended to address other related matters, such as providing clarity regarding window proposals, to allow for a more comprehensive consideration of the proposal.
- The current proposal would appear to cast fewer shadows on the mid-section of the subject site and the adjacent east site's rear amenity areas compared to the previous proposal.
- The absence of a two-storey block to the rear boundary contributes to the reduced shadow impact.
- The main rear courtyard amenity area, which is approximately 6.5m wide and 16m long, will experience some shadowing due to its width and the presence of three-storey and single-storey rear extension elements on both sides.
- Further analysis of shadow impacts, specifically in March and September, is recommended to gain a more comprehensive understanding of the potential shadowing effects on neighbouring properties to the east and west. This analysis can be requested through Further Information (FI), as mentioned earlier.
- The windows facing the Clifton Court apartments open space, as depicted on the floor plans, are generally acceptable in terms of their use and separation distances from the side boundary.
- The adjacent apartment scheme has a mostly communal open space and a blank east-facing elevation, which further contributes to the acceptability of the windows.
- The proposed side elevations do not clearly indicate the various openings shown on the west and east (side) elevations in the floor plans.
- Further clarification is needed regarding the proposed detailing of the windows, specifically whether clear or opaque/obscured glazing is proposed.
- The re-directed bay on the upper floor rear elevations, featuring large opaque glass and narrow single windows, helps limit potential overlooking of adjacent properties but may offer limited daylight for future residents.
- Several bedroom windows are relatively narrow in size, raising concerns. The applicant should be requested through Further Information (FI) to address these

concerns, potentially by exploring the provision of additional windows, such as high-level or re-directed windows.

- The Environmental Services Planning report acknowledges the Preliminary Site Waste Management Plan and the Site Access and Construction Management Plan submitted by the Applicant. However, the report notes that the submitted documents lack relevant details, particularly regarding Construction Waste Management and Environmental Management during the construction and operational phases.
- The report expresses general dissatisfaction with the submitted documents and recommends the submission of a comprehensive Construction Waste Management Plan, a detailed Environmental Management Construction Plan, and an Operational Waste Management Plan. Further Information will be requested to address these deficiencies and obtain the required plans and documents.
- The Environmental Health Officer (EHO) Planning report recommends requesting Further Information (FI) regarding demolition, construction, and operational phase items, similar to the Environmental Section (Waste) Planning Report.
- The EHO report specifically mentions the need for a Demolition Management Plan and a Construction Environmental Management Plan, with various details that should be included in the latter plan, including considerations for the operational phase.
- The report highlights the importance of addressing potential noise nuisance from prolonged rock-breaking activities during excavation works in the Demolition Management Plan.
- Given the similarities in the requested details and concerns raised in the Environmental Waste report, it is deemed reasonable to request Further Information (FI) for these specific items.
- The Transportation Planning report raises no objection to the proposals but recommends the attachment of 11 no. conditions related to access, parking, and transportation.
- The conditions outlined in the report cover requirements and details for car parking, access arrangements, and works during the construction and operational phases.

- Condition 1 recommends providing unobstructed pedestrian access routes with a minimum width of 1.2m, demarcated by a contrasting surface treatment, to the proposed entrances, especially the reception entrance of the nursing home.
- The report recommends including a detailed Construction Management Plan (CMP) for written approval, which should encompass measures such as a comprehensive Traffic Management Plan (TMP) for the construction period, location of site compounds and staff car parking, and construction hours.
- The proposal includes 6 no. car parking spaces, 2 of which are designated for disabled parking. The car parking standards for the nursing home are set out in the Dun Laoghaire-Rathdown County Development Plan, and the report notes that the provision of 6 spaces meets the acceptable standards.
- The report acknowledges the existing on-street 'Pay and Display' parking bays on Tivoli Terrace South and considers the proposed parking provision sufficient for the nursing home.
- The recommended condition for a Construction Management Plan (CMP) aligns with the recommendations in the Environmental Section (Waste) Planning report and the Environmental Health Officer (EHO) report regarding measures to minimise noise, dust, and working hours.
- The recommended SuDS (Sustainable Drainage Systems) condition in the Transportation Planning report is similar to the permeable paving and SuDS request in the Surface Water Drainage Planning report. Therefore, it should be included in any Further Information (FI) request.
- It is recommended that the applicant submit a detailed CMP, drawings with demarcated pedestrian access ways, and address the SuDS condition as part of the Further Information (FI) submission.
- The Drainage Planning Report recommends requesting Further Information regarding the required provision of Green Roof drainage for the flat roofs of the proposed commercial development.
- If permission is granted, conditions could be added stating that the flat roofs should only be accessed for maintenance purposes and not used as roofspaces or amenity areas. Additionally, no mechanical items or air-conditioning units should be installed without permission.

- The report notes that no Green Roof proposals or similar information has been provided in the current application.
- Considering the size of the site, the proposals, and the recommendations in the Drainage Planning report, it is deemed reasonable to request Further Information regarding Green Roof drainage in this case.
- The side elevations in the plans, which are shown at a scale of 1:100 (some incorrectly shown as 1:200), do not include the windows indicated on the floor plans. Specifically, the west elevation is missing windows for the upper floor Bedroom 38 corridor, Bedroom 21, and the adjacent W/C. Similarly, the east elevation does not show windows for upper floor Bedrooms and W/Cs 23, 24, 40, and the stairwell.
- It is unclear whether the large central corridor windows on the second and first floors of the proposed extensions, which are set back 16.03m from the rear elevation, have clear or opaque/obscure glazing.
- In light of these issues, it is recommended to request Further Information (FI) to address these missing elements and clarify the glazing type for the corridor windows.
- Appropriate Assessment Screening - determined that the proposed development would not significantly impact upon a Natura 2000 Site.
- Recommendation: Request further information.

2.3.2. Further information was requested requiring the following:

1. The Planning Authority seeks clarity regarding apparent discrepancies in the submitted planning drawings. In addition, there are concerns regarding the level of daylight available to a number of the proposed bedrooms, and the resulting level of residential amenity for future occupiers. The Applicant is requested to submit revised proposals which address these concerns, and which address in particular the following: (a) In terms of quality/level of daylighting to future resident's bedrooms, it is noted that the windows to some bedrooms appear to be very narrow, restricted, or absent. For example, ground floor Bedroom 14 does not

appear to have an external window, first floor Bedroom 30 & second floor Bedroom 46 appear to have very limited, narrow windows, and Bedrooms 22 and 38 would also appear to have limited daylighting potential. The Applicant is requested to submit revised proposals to address these concerns, for example with the provision of additional windows, such as high-level windows and/ or re-directed windows or other. Any additional windows shall be clearly dimensioned, and distances to shared boundaries of the subject site shall also be dimensioned, if relevant. (b) Some windows indicated on the proposed floor plans are not indicated on the side elevations, for example, on the west elevation, Bedroom 21 and adjacent W/C windows and the window serving the corridor near Bedroom 38, and on the east side elevation, for example, Bedroom 23, 24, 39 & 40 and stairwells. The Applicant is requested to submit revised side elevations showing all proposed windows. The type of glazing proposed (clear or opaque/obscure glazing, as relevant) shall be clearly shown for all windows on the side elevations. The drawings scales at 1:100 should also be correctly shown (some are indicated as 1:200) (c) It is not clear if the large central, rear (south) elevation corridor windows 18 (notated as setback 16.03m from the rear elevation) on the first and second floors of the proposed extensions, are clear, or opaque/ obscure glazing.

2. The Planning Authority has concerns regarding the level of detailing submitted in the shadow cast analysis, which relates to dates in June and December only. The Applicant is requested to submit a shadow study to include the months of March/September for both the existing development, and the proposed development.
3. (a) It is noted that the bowed front boundary walls to no. 6 (and also no.7 adjoining) are a distinctive part of the front boundary character of the site. In contrast, the proposed new vehicular entrance pillars shown on the front streetscape elevation, is shown to be set slightly forward, to be straight along the footpath edge. The applicant is requested to examine the possibility of retaining part of this wall, or of replicating the curved form of the boundary along the eastern part of the roadside frontage of the application site. Any revised proposals in relation to this aspect of

the boundary shall be illustrated on both a revised site plan and elevation drawings.

(b) It is noted that the proposals indicate the removal of the three-storey, rear return of the main body of no.6 Tivoli Terrace South, that is located in the middle of the main rear elevation. The Applicant is requested to provide a rationale for this. The details to be submitted shall include an appraisal of the existing built form, including the contribution that this return makes to the built heritage of the area and to the rear of Tivoli Terrace South, and the impact that the removal of this element to the rear would have on the built form and character of the area.

4. With regard to the proposed provision of open space, it is unclear as to how the stated 750sqm quantum of proposed open space has been calculated. The Applicant is requested to submit a revised site plan and revised ground floor plan, which clearly shows, by way of colour-coded detailing, the various areas to which the stated 750sqm applies. In this regard the Applicant is requested to note that areas within the front curtilage of the application site, which are proposed to be used for vehicular circulation/parking/loading, etc., are not considered as 'open space'. Any revisions to the proposed open space calculations shall be clearly set out on revised drawings.
5. The Planning Authority (Drainage Planning) has concerns regarding the lack of Green roof and other drainage details. In this respect the Applicant is requested to submit the following: (a) Details to demonstrate by calculation, and by representation on a drawing, a proposed green roof extents, that are in accordance with the Council's Green Roof Policy such that the minimum coverage requirement of 60% is achieved or provide appropriate alternative measures as detailed above. The applicant sh'll also provide details of maintenance access. A detailed cross section of the green roof should be provided, including dimensions. The applicant should demonstrate that the green roof is designed in accordance with BS EN 12056-3:2000, BS 6229:2018 and The SUDS Manual (CIRIA C753). This is noting that the applicant does not appear to have demonstrated that the proposed development meets the requirements of Appendix 16: Green Roofs Guidance Document of the County Development Plan 2016-2022, such that all roof areas

greater than 300 square metres requires a Green Roof that covers a minimum of 60% of the roof area. (b) Details to demonstrate that the proposal is in accordance with Section 8.2.4.9 of the County Development Plan 2016-2022, specifically, that all proposed hardstanding areas are shown to be permeable surfaces, such as gravel or a specifically designed permeable paving stone/asphalt system. This is noting that it is unclear from the information provided, whether the proposed hardstanding areas are designed in accordance with © policy. These details should include driveway/parking/hardstanding areas to be constructed in accordance with sustainable drainage systems (SuDS) and also prevent the discharge of surface water onto the public footpath/road. Furthermore, if gravel is proposed for the driveway/parking/hardstanding areas, then it shall be contained in such a way to ensure that it does not transfer onto the public footpath/road, on road safety grounds. Environmental / Waste Planning:

6. The Planning Authority (Waste Management) has concerns regarding the content and scope of the documents submitted as part of the application in terms of the following – (i) Preliminary – Site Waste Management Plan, and (ii) Site Access and Construction Management Plan, and that noting the location of this development, that the documents appear to lack relevant detail, and that this issue should be addressed by way of the submission of the following (regarding Construction Waste and Environmental Management): (a) A detailed Construction Waste Management Plan (CWMP), (b) A detailed ‘Environmental Management Construction Plan’ (EMCP) (consistent with The DLR Guidance Notes for Environmental Management of Construction Projects), (c) An Operational Waste Management Plan (OWMP). The Applicant is advised to review the full report on file from the Environment Services Planning (Environmental Enforcement). Environmental Health Officer (EHO):

7. The Applicant is requested to submit the following, to address matters raised by the Environmental Health Officer (EHO): (a) A more detailed Demolition Management Plan (DMP) – (the plans should also detail if there is expected to be any prolonged rock breaking activities during excavation works and if so, measures

to mitigate noise nuisance from such activities), (b) A detailed Construction Environmental Management Plan (CEMP) – (this should also include details of any later operational phase, such as an operational waste management plan, details regarding emissions, and consideration of the siting of any cooling/air conditioning units etc.). The Applicant is advised to review the full report on file from the Environmental Health Officer (EHO). Transportation Planning: 8. With regard to Transportation Planning, the Applicant is requested to submit the following: (a) Revised Ground Floor (site plan) drawing illustrating and detailing the provision of minimum 1.2m wide pedestrian access routes, unobstructed by car parking, cycle parking or bin stores, and demarcated by a contrasting surface treatment, to the proposed entrances, and the reception entrance in particular, to the proposed extended/expanded nursing home, from the appropriate site boundary accesses to 4/5/6 Tivoli Terrace South, Dun Laoghaire. (b) A detailed Construction Management Plan (CMP) – (this should include a full and comprehensive Traffic Management Plan (TMP), and proposed measures to minimise /eliminate nuisance caused by noise and dust, and for details of proposed working hours.

2.3.3. **Second Report (12/10/2021)**

- Significant Further Information was received.
- Documentation submitted includes the following;
 - Shadow Study
 - Outline Construction Management Plan
 - Revised Drawings
 - Cover letter response

2.3.3.1. **Re. Item No.1**

Applicants response:

- The Applicant's agent has responded to Item No. 1a with a detailed Further Information (FI) response letter and a set of revised drawings.
- The response letter acknowledges the requested changes and states that all drawings have been carefully examined, with minor adjustments made to address specific concerns.
- The revised drawings reflect the requested window and elevation modifications, primarily addressing the omission of windows on certain elevations and the addition and widening of windows as highlighted in the FI request. However, there are some discrepancies in the revised drawings. The FI addition of a new window on the first floor to Room no. 22 on the west side elevation is missing, and the additional small WC window for Room 38 on the rear elevation is not shown.
- The dimensioning of the additional windows is not clearly depicted, and it remains unclear whether the side elevation windows and the large central corridor windows on the rear (south) elevation will have clear or opaque/obscure glazing. The illustrations show some windows with dotted surfaces, while a few are half-dotted or blanked out, but the glazing type is still ambiguous.
- In addition to the window changes, other modifications include the inclusion of previously omitted first and second-floor side elevation windows for specific rooms (e.g., Rooms 23, 24, 39, 40) and the addition of windows to Rooms 21 and 38's hall. Furthermore, there are wider windows for Rooms 24 and 40 on the east and west sides, and Rooms 30 and 46 on the rear elevation.
- Notable additions are the new and wider windows for Room 22 (facing the inner courtyard) on the first floor, a new front window for Room 26 in the middle-link extension, a narrow rear window for Room 38's WC on the second floor, and new single east side windows for adjacent Rooms 14 and 15 on the ground floor.

Assessment:

- The response to FI Items 1a-1b is generally acceptable, as additional and/or wider standard windows have been included to improve light and missing windows on side elevations are now shown.
- The proposed and now widened first and second-floor bedroom windows, annotated as c. 10.1m from the east side boundary, are considered acceptable due to their modest size, distance to the boundary, presence of a high shared boundary wall, and the large size of the adjacent site.
- The newly illustrated first and second-floor stairs windows, located approximately 1.3m from the east side boundary, are generally acceptable considering their modest size, purpose for staircases, separation from the boundary, and the presence of a high shared boundary wall.
- It is recommended that the east side first and second-floor stairs windows be permanently glazed with obscure/opaque glass for general amenity purposes, if permission is granted.
- The west side elevation windows facing Clifton Court apartments, now shown, are generally acceptable due to their modest size, intended room use, separation from the boundary, and the inclusion of a high-level, obscured glazed window for Room 22's WC (not shown on FI revised west elevation drawing).
- However, the new window on the first floor for Room 22 (en-suite) on the west side elevation is missing from the revised west elevation drawing, requiring clarification (FI Item 1a-1b). It is also unclear whether the large central corridor windows on the rear elevation are intended to have clear or opaque/obscure glazing (FI Item 1e).
- Additionally, there is no mention or rationale for a window to improve light access in Room 38's WC, and it is unclear if a rooflight is proposed near the projecting bay window with a solid element on the rear elevation. The proposed floor plan suggests a rooflight may be included, but the proposed roof plan does not show one at the relevant location. These aspects should be addressed through a request for Clarification of Further Information (CFI).

2.3.3.2. Re. Item No. 2

Applicants response:

- The Applicant's agent has responded to Item No. 2 with an FI response letter and additional shadow cast drawings.
- The response letter acknowledges the need for an expanded shadow study and includes new drawings for both existing and proposed buildings/structures, specifically for the months of September and March.
- The additional shadow drawings cover the time periods from 08:00 to 19:00 in September and from 08:00 to 18:00 in March.
- It is stated that since the proposed development is located north of Tivoli Road, it would have minimal to no impact on the properties in that area.
- Regarding the adjoining structures at Clifton Court and no.7 Tivoli Terrace South, the impact of the proposed extension is reported to be limited to the first and last hours of daylight only.

Assessment:

- In response to FI Item 2, it is deemed that the provided response is satisfactory.
- The additional shadow drawings demonstrate minimal, if any, significant increase in shadowing beyond the site boundaries during the September and March periods, specifically in relation to the proposed structures.
- It is concluded that the impact of the proposed structures on shadowing is negligible based on the presented drawings.

2.3.3.3. **Re. Item No. 3**

Applicants response:

- The revised site layout drawings depict the retention of the existing front bowed wall of no.6, along with an expanded front amenity space behind it.
- The emergency/loading area driveway and accessible parking bays have been repositioned closer to the middle of the site, towards the west side. One entrance pillar of no.6 has also been relocated to accommodate the wider emergency/loading entrance.

- Regarding FI Item 3b, the response includes an FI letter, but no revised drawings.
- The response letter justifies the removal of the rear return based on the need to comply with minimum floor area requirements set by H.I.Q.A. and to accommodate an escape staircase as per building regulations.
- It is stated that the existing structure is not fit for purpose and, while located within an area of architectural conservation, it is not a protected structure.
- The response asserts that the proposed changes to the rear structures will not impact the streetscape of Tivoli Terrace South, thus deeming the proposal appropriate in this context.

Assessment:

- In response to FI Item 3a, the provided response is deemed acceptable.
- The existing front boundary feature, the bowed wall paired with no. 7 Tivoli Terrace, is retained, as indicated in the response.
- Regarding FI Item 3b, the response is considered satisfactory.
- It is noted for clarity that the subject site is not located within an Architectural Conservation Area (ACA) or candidate ACA according to the current Development Plan.
- The response also clarifies that the site does not include a Protected Structure or adjoin one.

2.3.3.4. Re. Item No. 4

Applicants response:

- In response to FI Item 4, the provided response includes an FI response letter and revised drawings.
- The response letter references a site layout drawing that details the main ground floor open spaces and addresses the calculation of open space quantum.

- It is stated in the response letter that the previous open space calculation included the front parking area, which has always been accessible to residents for recreation purposes. However, it is clarified that the front parking area is now omitted from the open space calculation.
- The open space is now stated to be 587.17 sq.m.
- The response letter further explains that the internal and external areas accessible to residents have been accounted for, with minor areas excluded.
- The listed open spaces in the response letter are identified as A/B/C:
- Area 'A' is a residents-only landscaped garden of approximately 240 sq.m, located in front of Tivoli Terrace South.
- Area 'C' is a residents-only external rear area of approximately 182 sq.m, consisting of hard and soft landscaped spaces.
- Area 'B' is identified as internal communal space totalling 163 sq.m.
- The response states that while the quantum of amenity space falls slightly short of the mathematical standard, the quality and arrangement of the spaces, in the context of the proposed improvements and upgrades, will not result in a deficient environment for future residents.

Assessment:

- Regarding FI Item 4, it is considered that the response is generally acceptable.
- It is noted that the Applicant's calculations indicate that 422 sq.m would constitute external communal spaces, with approximately 240 sq.m in the front area and approximately 182 sq.m in the rear external area.
- However, for clarification, Area 'B' measuring 163 sq.m, identified as internal communal space, mainly comprising an open plan dining/lounge area (approximately 82 sq.m) and a connecting front reception/seating area (approximately 40 sq.m), should not be included in the open space calculations according to the Planning Authority's interpretation.
- It is acknowledged that the increased area of the front garden space holds more amenity value and that the size, dimensions, and distribution of the external spaces are acceptable, considering the longstanding nature of the premises

and the built-up location. It is deemed acceptable to have a slight shortfall in the standard open space requirement, given the circumstances of this particular case.

2.3.3.5. **Re. Item No. 5**

Applicants response:

- In response to Item 5(a) & (b), the Applicant's agent has submitted an FI response letter and revised drawings.
- The response letter refers to the Consulting Engineer's report and drawings, confirming that the proposed green roof (Sedum Blanket) covers more than 60% of the total proposed flat-roof area.
- The FI Engineer's drawings submitted show all proposed paved areas with a permeable design using concrete block pavements. The drawings also illustrate the build-up of both hard and soft surfaces.
- The revised drawings indicate that the majority of the roofs in the proposed development, including new floor areas, are intended to be green roofs. The drawings labelled 'Upper Level Green Roof' and 'Lower Level Green Roof' depict the use of green roofs, except for the furthest rear (north) end of the proposed new buildings, which is indicated as a 'Standard Flat Roof'.

Assessment:

- In the Departmental Assessments, the Drainage Planning Department has provided an FI report regarding FI Items S(a) & (b).
- FI Item 5 is addressed in the Drainage Planning Department's FI report, which states no objections subject to two conditions, including that the proposed green roof be installed according to the details included in the FI response and comply with BS EN 12056-3:2000 and The SUDS Manual (CIRIA C753), with a formal maintenance agreement with a professional maintenance contractor, and no discharge to the sewer, with local infiltration via gravel/permeable paving for proposed parking/hardstanding areas, as indicated in the FI response.

- In the Planning Assessment, it is considered that the response to FI Item 5 is acceptable. This assessment takes into account the Drainage Planning report, which does not raise any objections and is subject to the aforementioned conditions.

2.3.3.6. **Re. Item No. 6**

Applicants response:

- The Applicant's Submission addresses Item No. 6(a) and (b) in the FI response letter, which refers to a submitted construction, demolition, and construction waste management plan.
- In relation to Item No. 6(c) (erroneously referred to as 6(b) in the FI response cover letter), the submitted FI response letter states that the operational waste management plan (OWMP) will be prepared by the applicants and submitted to the Planning Authority for written approval. It further mentions that the applicants are willing to accept a condition regarding this matter.

Assessment:

- The Departmental Assessment from the Environmental Section (Waste) Department addresses FI Item 6. It notes that the Preliminary-Site Waste Management Plan, Site Access and Construction Management Plan, and Outline Construction Management Plan submitted by the Applicant's lack relevant detail according to Environmental Enforcement. The report states that these issues will need to be addressed, potentially through the imposition of conditions.
- The Planning Assessment acknowledges the contents and requirements outlined in the Environmental Section FI report. It is considered that these matters can be appropriately addressed through the imposition of conditions if planning permission is granted.

2.3.3.7. **Re. Item No. 7**

Applicants response:

- In response to FI Item 7(a) and (b), the Applicant's agent has submitted an FI response letter, which references the submitted construction, demolition, and construction waste management plan.

Assessment:

- EHO Planning: Regarding FI Items 7(a) & (b):
 - Re: FI Item 7(a): The EHO's FI report highlights the absence of a baseline noise assessment report to manage noise and vibration impact during the construction phase, particularly prior to basement level excavation and potential piling for the proposed 3-storey extension. The report emphasizes the proximity of the site to residential properties and the need to predict the impacts of demolition and construction phases and propose mitigation measures.
 - Re. FI Item 7(b): The EHO's FI report notes the lack of a baseline environmental noise survey, including predictive modelling for the noise impacts during the operational phase of the proposed care facility. It states that a survey of this nature is required for a facility of this scale in a predominantly residential area. The EHO also highlights the importance of assessing noise thresholds and selecting appropriate plant equipment during the design stage to ensure noise emissions comply with the assessed thresholds.
 - The EHO report concludes by recommending that the Planning Authority refuse the proposed development due to the omission of the required information regarding noise assessments.
- Planning Assessment:
 - With regard to FI Item 7, it is considered that the response provided is not overall acceptable, taking into account the contents and recommendation of the EHO's Planning FI report. The requested information regarding noise assessments and mitigation measures has not been satisfactorily addressed. The EHO's recommendation to refuse the development based on the omission of this information is noted.

- It is suggested that the Applicant be requested to address these matters through a Clarification of Further Information (CFI) request.

2.3.3.8. **Re. Item No. 8**

Applicants response:

- In response to Item No. 8a, the Applicant's agent has submitted an FI response letter that refers to the submission of revised ground floor plans and site layout (Part M). It is stated that access and use of the proposed development will be subject to a Disability Access Certificate (D.A.C.) application, which will be submitted after obtaining planning permission.
- In response to Item No. 8b, the Applicant's agent has submitted an FI response letter that refers to the enclosed construction, demolition, and construction waste management plan. It is noted that the Outline Construction Management Plan (CMP) provided in the FI states that working hours will be agreed upon with the Dún Laoghaire-Rathdown County Council (DLRCC) prior to the commencement of works.

Assessment:

- Transportation Planning report: Regarding FI Items 8(a) and (b):
 - FI Item 8(a) - The Transportation Planning report recommends requesting Clarification of Further Information (CFI) regarding the provision of minimum 1.2m wide pedestrian access routes to the proposed entrances of the nursing home, demarcated by a contrasting surface treatment. The report states that this information was not shown on the submitted revised ground floor plan and site layout.
- Planning Assessment:
 - With regard to FI Item 8(a), it is considered that the response is not acceptable, as stated in the Transportation Planning report. The requested information regarding pedestrian access routes was not provided in the submitted documents. The Planning Authority concurs with the recommendation to seek Clarification of Further Information (CFI) to obtain the required details.

- With regard to FI Item 8(b), it is noted that the response received is acknowledged and accepted by Transportation Planning. This is considered acceptable.

2.3.4. Clarification of Further Information was requested, requiring the following:

1. Having regard to Item 1 of the further information response, the Planning Authority considers that the plans and particulars lodged with the Further Information response, do not illustrate all of the window additions and changes, or window details requested. The Applicant is requested to submit additional details/ re-revised plans and particulars, particularly a revised elevation drawing no.107F.I. 'Site Elevations 3D Image' and written details, and revised Second Floor Plan, whereby the following is addressed: (a) Any proposals for a second floor window to Room 38, to improve light access etc. The Applicant is requested to clarify if a rooflight is proposed to serve this Room 38, and if so, to indicate same on roof plan. (b) The new window on the first floor, to Room no.22 (en-suite), west (side) elevation, shown on revised west elevation drawing, and the new small, WC window to Room 38 to be shown on the rear elevation. (c) Additional windows clearly dimensioned. (d) The type of glazing to the windows now shown on the revised side elevations (including by annotations and/or drawing legend/key) as clear or opaque/obscure. (e) Glazing details of the large central, rear (south) elevation corridor windows, on first and second floors, stating if they are clear, or opaque/ obscure glazing.
2. (a) Having regard to Item 7(a) of the further information request relating to a more detailed Demolition Management Plan (DMP), the Planning Authority notes that the plans and particulars lodged with the Further Information response did not include: Any baseline noise assessment report, to manage noise and vibration impact during the construction phase, prior to basement level excavation, and possible piling to support foundations on the proposed 3 Storey extension over basement containing utility/plant services, and that

the impacts of the demolition, and construction phases on the receiving environment, should be predicted and mitigation measures proposed. The Applicant is requested to submit a revised, more detailed Demolition Management Plan which addresses these matters raised. (b) Having regard to Item 7(b) of the Further Information request relating to a more detailed Construction Environmental Management Plan (CEMP), the Planning Authority notes that the plans and particulars lodged did not include: A baseline environmental noise survey, to include predictive modelling on the noise impacts of the operational phase, and this is required for proposed care facility of this scale in a predominately residential area (this is noting also that, in terms of operational plant noise, suitable noise thresholds can be assessed from the measured, and calculated prevalent noise levels, and that during the design stage, plant can be selected, to ensure that the noise emissions at local sensitive receptors do not exceed the assessed thresholds). The Applicant is requested to submit a revised, more detailed Construction Environmental Management Plan (CEMP), which addresses these matters raised. The Applicant is advised to review the full report on file from the EHO, and also noting the recommendations of the Environment Section (Environmental Enforcement) report.

3. Having regard to Item 8(a) of the further information response, the Planning Authority notes that the plans and particulars lodged did not include any delineated pedestrian path(s). The Applicant is requested to submit revised plans and particulars, which clarify this matter. In this regard the Applicant is requested to submit revised/additional drawings/details for the proposed development showing the provision of minimum 1.2m wide pedestrian access routes, unobstructed by car parking, cycle parking or bin stores, and demarcated by a contrasting surface treatment, to the proposed entrances, and the reception entrance in particular, to the proposed extended/expanded nursing home, from the appropriate site boundary accesses to 4/5/6 Tivoli Terrace South, Dun Laoghaire. These may be provided, for example, along

the two sides of the proposed disabled car parking, as shown on the submitted revised ground floor plan and site layout 101F.I, and onwards to the reception entrance in particular.

2.3.5. Third Report (26/05/2022)

- Significant Clarification of Further Information submitted.
- Documentation submitted includes the following:
 - Outline Construction, Demolition and Waste Management Plan
 - Noise & Vibration Impact Assessment Report
 - Revised Drawings
 - Cover Letter response and revised public notices

2.3.5.1. Re. Item No.1

Applicant Response and Assessment:

- With regard to Item No. 1, the Applicant's agent submitted Clarification of Further Information (CFI) response letters and revised drawings. The CFI cover letter states that minor adjustments have been made as requested by the Planning Authority.
- Regarding Item 1(a) and (b), the revised CFI floor plan drawings show the addition of a rooflight above the redirected window to Room No. 38, which is also shown on the main roof plan drawing. The revised CFI rear (south) elevation now includes a narrow w/c window for Room No. 38, which was not previously shown on the rear elevation but was indicated in the FI response floor plan. This window is now indicated to have opaque glazing. The revised CFI drawings also show a high-level w/c window for Room No. 22 on the west (side) elevation, with opaque glazing as indicated on the proposed elevation and second-floor plan.
- Re. Item 1(c), the revised CFI drawings include the requested dimensions, although they may not be easily discernible in some instances. The dimensions,

such as the 1-meter wide window dimensions for Room 30 and Room 46, are indicated.

- Regarding Item 1(e), the details of the large central, rear (south) facing elevation windows are not easily discernible on the CFI drawing. The glazing is partially obscured by the outline of a tree superimposed on the drawing. However, it appears that the larger areas of glazing have obscure glazing, while the narrower panes have clear glazing. This is considered acceptable and will be confirmed through a condition.
- In other observations, it is noted that the window to the 'Accessible W/C' of Room 21, as stated on the First Floor Plan, is indicated to be a high-level window with obscure glazing. However, when viewed on the side (west) elevation, it is not a high-level window. Nevertheless, since the glazing is shown to be opaque, the provision of this window as shown is deemed acceptable.
- In conclusion, there are some inconsistencies in the detailing of the proposed windows in the submitted drawings. However, it is considered that these issues can be addressed and confirmed through conditions.

2.3.5.2. **Re. Item No.2**

Applicants Response:

- In response to Item No. 2, the Applicant's agent has submitted two Clarification of Further Information (CFI) response cover letters, dated 22 March 2022 and 29 March 2022. They have also submitted a Noise & Vibration Impact Assessment Report prepared by Redkite Environmental and an Outline Construction, Demolition, and Environmental Management Plan prepared by PBA Architects.
- The Outline Construction, Demolition, and Environmental Management Plan has two issue dates, 18/03/2022 and 30/11/2011. The Conclusion (Section 6.0) of the revised plan indicates that it provides an outline of the works from initial enabling works to sub-structure and superstructure construction. It states that this is an outline plan, and the final Construction Management Plan will be agreed upon with

Dun Laoghaire Rathdown County Council by the appointed contractor before construction begins.

- The submitted Noise & Vibration report mentions that there will be no crushing of rock on the site. It also states that existing boundary walls will be maintained and supported as necessary according to engineering recommendations to prevent damage during the works.

EHO Planning Assessment:

- Regarding CFI Items 2(a) & (b): The EHO Planning CFI report states that the reports submitted in response to Item 2(a) and 2(b) are acceptable. They recommend conditions related to the Construction Environmental Management Plan (CEMP) and Operational Waste Management Plan (OWMP).

Environment Section Assessment:

- Regarding CFI Items 2(a) & (b): The Environmental Section CFI report acknowledges that the subject site is located within an established residential area. They note that the submitted documents lack relevant detail.
- The Environment Section CFI recommends six conditions. These conditions cover various aspects, including monitoring of noise, vibration, and dust during the construction stage, proper construction waste management, development of a public liaison plan, implementation of a noise management plan, pest control measures, and an operational waste management plan that designates waste storage and collection areas within the completed development's curtilage.

Planning Assessment:

- The Planning Authority acknowledges the content of the reports received from the EHO, Environment Section, and Transportation Planning regarding the CFI response.
- Regarding CFI Item 2(a) and (b), it is determined that most of the issues have been satisfactorily addressed, subject to relevant conditions outlined in the Environment Section report (dated 22 April 2022).
- The EHO's report recommends a construction working hours threshold of 6:00 PM. The Planning Authority refers to Section 12.9.5 of the 2022-2028 Dun Laoghaire

Rathdown County Development Plan, which outlines the standard hours of construction.

- The submitted Outline Construction, Demolition, and Environmental Management Plan states that the hours of operation are to be agreed upon with the Planning Authority prior to the commencement of works. Considering the location of the site in a residential area and the scale of the proposed works, the Planning Authority recommends that a condition be attached to restrict site development and building works to the specified hours in the County Development Plan. Any request for work outside these hours should be subject to prior approval.
- The Planning Authority agrees that the conditions outlined in the Environment Section report, including noise, vibration, and dust monitoring, as well as noise management, should be included in the event of a grant of permission for the proposed development.
- The condition relating to "Liaison with Public" mentioned in the Environment Section report is noted.
- The Transportation Planning report also recommends the inclusion of a condition that outlines a procedure for addressing complaints from third parties during the construction process. The Planning Authority recommends attaching such a condition if planning permission is granted.

2.3.5.3. **Re. Item No.3**

Applicant's Submission:

- In response to Item No. 3, the Applicant's agent has provided two CFI response cover letters dated 22 March 2022 and 29 March 2022, along with revised drawings, including site and floor plan drawings.
- The CFI cover letter dated 22nd March states that the revised drawing no. 101C.F.I. demonstrates the inclusion of a dedicated 1.2-metre pedestrian pathway extending from the boundary access to the reception entrance.
- The CFI ground floor/site plan depicts a 1.2-metre wide footpath adjacent to one side of the proposed disabled car parking. The footpath continues closer to the

front elevation, leading to the proposed new main entrance doorway and reception area ramped access route.

Departmental Assessments - Transportation Planning:

- Regarding CFI Item 3, the Transportation Planning CFI report (dated 22 April 2022) acknowledges the revised drawing titled Ground Floor Plan/Site Plan (Dwg. No. 101 C.F.I) and raises no objection to the proposed development, subject to 10 conditions.
- These conditions include the amendment of 'Pay and Display' parking bays on Tivoli Terrace South due to the proposed revised vehicular entrances, implementation of footpath dishing, compliance with the submitted PBA Architects Outline Construction, Demolition and Environmental Management Plan, submission of a detailed Construction Management Plan for written approval (including a comprehensive Traffic Management Plan), obtaining a Road Opening License, providing an Electric Vehicle Charging Space, secure covered long-stay cycle parking spaces for staff, a drying room or clothes rack for walkers and cyclists, avoidance of construction traffic conflicts, and prevention of any mud, dirt, debris on the public road.
- The requirement for the Construction Management Plan to include a procedure for dealing with complaints from third parties during the construction process is also noted. The Planning Authority acknowledges that this matter is raised in the Environment Section's report, and it is included as a condition in the recommended conditions of the report.
- Additionally, the Transportation Planning report refers to the new Dun Laoghaire Rathdown County Development Plan 2022-2028 and concludes that the proposed 6 car parking spaces are acceptable for the proposed extended nursing home based on the car parking standards outlined in the plan.

Planning Assessment:

- Regarding CFI Item 3, the matter of delineated pedestrian paths has been adequately addressed in the Clarification of Further Information response. The

Transportation Planning report acknowledges the CFI drawing and raises no objection, subject to conditions related to the overall proposal.

- The new Dun Laoghaire Rathdown County Development Plan 2022-2028 has come into effect since the request for Further Information and the CFI response. While there have been no significant changes that would materially alter the assessment of the proposed development, the plan provides additional clarity on matters such as car parking, open space provision, and drainage.
- Car Parking: Table 12.5 of the County Development Plan 2022-2028 sets out the Car Parking Zones and Standards. The subject site falls within Zone 2, and the car parking provision for the proposed development is considered acceptable under the current plan.
- Open Space: Section 12.3.8.2 for Nursing Homes/Assisted Living Accommodation and Section 12.8.4 for Mixed Use, Non-Residential, and Commercial developments provide criteria for open space provision. These sections emphasise the need for adequate and suitable open space in such developments, including a requirement for at least 20% open space of the overall site area for nursing homes/assisted living accommodation and at least 15 sq.m. of open space per resident unless otherwise agreed with the Planning Authority.
- Considering these provisions, the Planning Authority notes that the requirement to provide at least 20% open space of the overall site area for nursing homes/assisted living accommodation is a criterion under the current County Development Plan but was not included in the previous plan. However, there is no change in the requirement to provide at least 15 sq.m. of open space per resident, unless otherwise agreed with the Planning Authority.
- The provision of open space for the proposed development has been previously considered acceptable in the assessment of Item 4 of the Further Information request.

Drainage Planning:

- The Drainage Planning report, dated 14/01/2022, on the Further Information response received on 22 December 2021, raised no objections to the proposed development, subject to two conditions.
- Relevant policies of the new Development Plan 2022-2028 are quoted.
- Taking into account the nature and location of the proposed development, as well as the associated access and boundary treatments, it is concluded that the proposed development, as clarified through the Further Information (FI) received on 22/12/2021, and Significant Clarification of Further Information (Significant CFI) received on 31/03/2022, would not have a negative impact on the residential amenities of neighbouring properties, subject to appropriate conditions.
- The proposed development is deemed to be in compliance with relevant policy and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028.
- Recommendation: Grant Permission subject to Conditions.

2.3.6. Other Departmental Reports

2.3.6.1. **Transportation Planning Report** – dated 22/04/2022. 10 no. Conditions recommended summarised as follows;

1. The Applicant shall arrange for the necessary amendment of 'Pay and Display' parking bays on Tivoli Terrace South, Dun Laoghaire, at their own expense, in accordance with the terms and conditions of the Planning Authority.
2. The footpath in front of the revised vehicular entrances to 4/5/6 Tivoli Terrace South shall be dished and strengthened, and the remainder of the footpath shall be reconstructed as required, all at the Applicant's own expense and in compliance with utility company and Planning Authority requirements.
3. The selected Contractor shall implement measures outlined in the Outline Construction, Demolition, and Environmental Management Plan and submit a detailed Construction Management Plan for approval, addressing traffic management, access routes, site compound, vehicle deliveries, staff car parking, noise and dust mitigation, working hours, complaint procedure, and more.

4. A Road Opening Licence from the Municipal Services Department - Road Maintenance & Roads Control Section must be obtained before undertaking any works on the public road/footpath.
5. One of the proposed general car parking spaces shall be designated as an Electric Vehicle Charging Space.
6. In addition to short-stay cycle parking spaces, secure covered long-stay cycle parking spaces shall be provided according to Dun Laoghaire-Rathdown County Council's Standards for Cycle Parking.
7. A drying room or clothes rack shall be provided for walkers and cyclists to hang and dry their clothes and equipment, as per DLR's standards for cycle parking.
8. Driveway/parking/hardstanding areas shall be constructed with sustainable drainage systems (SuDS) to prevent the discharge of surface water onto public footpaths/roads and contain gravel to avoid transfer onto public areas for road safety reasons.
9. Measures shall be taken to avoid conflicts between construction traffic/activities and pedestrians/cyclists on Tivoli Terrace South during construction works.
10. The Applicant shall prevent the transfer of mud, dirt, debris, or building materials onto the public road or neighbouring properties and repair any damage caused by the site works.

2.3.6.2. **Environmental Section Planning Report** - dated 22 April 2022. Conditions recommended regarding monitoring, construction waste, liaison with the public, noise management, pest control, and operational waste management.

2.3.6.3. **E.H.O. Planning Report** - dated 12/04/2022 in response to clarification of further information:

- The Noise Vibration Impact Assessment report evaluates the noise and vibration impacts associated with the proposed construction and operational phases against specific criteria. The report is considered acceptable.
- The construction noise and vibration mitigation measures and/or factors outlined in the Revised Outline Construction, Demolition and Environmental Management Plan are also deemed acceptable.

- The predicted operational noise levels for selected plant equipment, specifically pumps, are expected to be within a measurement of 43 dB(A) during normal operation.
- Based on the night-time background noise levels, the proposed limit for plant noise at the facade of the nearest NSR (Noise Sensitive Receptor) is set at 35 dB(A).
- The noise and vibration mitigation measures and limits are acceptable.
- Conditions recommended regarding the Construction Environmental Management Plan and Operational Waste Management Plan.

2.3.6.4. **Drainage Planning report** – dated 13/01/2022

No objection subject to Conditions.

3.0 **Planning History**

P.A. Ref. D21A/0154 Permission REFUSED on the 20th Apr 2021 for the proposed demolition of an existing conservatory and extensions to the rear of the existing nursing home in No. 4 and 5, the demolition of the mews building adjoining No 6 Tivoli Terrace South and its replacement by a new three storey extension containing a new primary entrance to expanded and renovated nursing home, the change of use of No.6 from residential use to nursing home use, plus the alterations, extensions in part 3 storey, 2 storey and single-storey extensions to rear of Nos. 4,5, and 6, including a basement area of c. 97 sq.m. The proposed development will comprise an additional 37 no. rooms for a total of 53 no. rooms and 55 no. bed spaces; landscaped open space to rear; new primary reception area and ancillary communal rooms, residents lounge, dining room, internal landscaped courtyards and new lift shaft provision; 6 no. car parking spaces to front of no .4 and 5, two of these spaces to be disability accessible; 10 no. bicycle spaces; loading area, bin store, alterations to the existing front boundary wall, landscaping to front of no.6 and all other associated site works.

The reasons for refusal were as follows:

1. The proposed development, by reason of the significant increase in the number of bedrooms, its cumulative height, length, scale/ bulk, and its layout and close proximity to the surrounding site boundaries, to the east and west side, and to the south (rear), would result in overdevelopment of the site, would result in undue shadowing impacts, and would unduly impact on the residential and visual amenity of the adjoining properties, and including substandard private open space for future occupants of the nursing home. The proposals would not comply with Section 8.2.3.3 (xiii) 'Nursing Homes for the Elderly/ Assisted Living Accommodation' and 'Section 8.2.8.2(ii) Non-residential', of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. If permitted, the proposal would help set an undesirable precedent for similar development in the area. The proposed development would, therefore, seriously injure the amenities and/or depreciate the value of property in the vicinity and would, thereby, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the overall height, scale, bulk and layout of the proposed development relative to the adjacent surrounding residential developments, would appear visually overbearing and intrusive as viewed from the surroundings. The proposed development would, therefore, be seriously injurious to the residential and visual amenity of the adjoining dwellings and properties and, if permitted, would help set an undesirable precedent for similar development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Ref. D19A/0506 / ABP Ref. ABP-306039-19 Permission REFUSED ON APPEAL on 04/11/2020 for the proposed demolition of the existing mews dwelling at No. 6 Tivoli Terrace South, plus alterations, extension and renovation of the existing nursing home. Alterations and extension to provide for a new lower ground floor primary entrance reception and ancillary service rooms, new three, two and single-storey bedroom extensions to the side and rear with open internal courtyard, residents lounge/dining and communal areas, new lift shaft provision from ground floor to new second floor level, provision of new second-floor level to the existing structure, new

emergency egress route and door to existing front elevation, proposed new service area to the front of the site, alterations to existing front boundary wall plus all associated site works. The reason for refusal was as follows:

1. The proposed development, by reason of the scale of the proposed two-storey structure in close proximity to the southern boundary of the site, would be visually obtrusive and overbearing in views from the adjoining residential properties on Tivoli Road. The proposed development would also fail to provide adequate private open space for its occupants in accordance with the standards set out at section 8.2.8.2 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development would, therefore, seriously injure the residential amenities of the area and of properties in the vicinity of the site.

P.A. Ref. D18A/0813 Permission REFUSED on 17th Oct 2018 for the proposed alterations to previously granted permissions D09A/0891E, D09A/0891, D17A/0317 and D17A/0316. Alterations to provide for a revised new two storeys and single-storey extension to the rear with an open internal courtyard, 8 No. residents bedrooms, residents lounge/dining and communal areas, proposed new basement service area, new lift shaft provision from the basement to second-floor level, new emergency egress route and door to existing front elevation, plus all associated site works.

The reason for refusal was as follows:

1. The proposed development, by reason of the significant increase in the number of bedrooms, its accumulative scale, layout and proximity to the adjoining site boundaries, in particular to the east, would result in overdevelopment of the site and would unduly impact on the residential and visual amenity of the adjoining dwellings, and if permitted would set an undesirable precedent for similar development in the area. The proposed development would, therefore, seriously injure the amenities and/or depreciate the value of property in the vicinity and would, thereby, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the overall scale and layout of the proposed development relative to the adjoining residential development, to the east of the site, in particular, would appear visually overbearing and intrusive as viewed from the

adjoining site. The proposed development would, therefore, be seriously injurious to the residential and visual amenity of the adjoining dwelling and, if permitted, would set an undesirable precedent for similar development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Ref. D16A/0398 / ABP Ref. PL06D.247108 Permission REFUSED ON APPEAL on 21/12/2016 to amend previously permitted development Reg. Ref. D09A/0891. The proposal consists of demolishing 2 rear returns and constructing 4 storey over basement extension to the rear to include stairs core and lift, sanitary accommodation. Revisions to the permitted 2 storey extension to the rear to include a new basement floor and an additional floor to provide 3 storey over basement element. Form a new side passage for access to the garden at basement level. Renovation, refurbishment and re-arrangement of the existing 18 bedrooms to allow another floor with 9 bedrooms within the permitted building providing a total of 44 beds in 42 bedrooms in total when complete. Elevational changes including relocation of the existing entrance door and raising the permitted roof/parapet level and ancillary site works. The reasons for refusal were as follows:

1. It is the policy of the Planning Authority, as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to retain and encourage the rehabilitation and suitable reuse of existing older buildings which make a positive contribution to the character and appearance of a streetscape. Numbers 4 and 5 Tivoli Terrace South are distinct Victorian structures of architectural and historic merit which make a positive contribution to the historic built environment of the residential area in which they are located, add positively to the streetscape and, as a consequence, have a role in the sustainable development of the area. Having regard to the contribution the established structures make to the built heritage of the area and to the remaining integral design features of these structures, it is considered that the proposed alterations to the building, including increased building height, removal of doorways and fenestration, and provision of a mansard-type roof, would constitute a significant intrusion into the character of the structure and would conflict with the provisions of the Dún Laoghaire-Rathdown

Development Plan relating to the rehabilitation of vernacular heritage and older buildings. The proposed development would, therefore, seriously injure the visual amenity of the area and of property in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.

2. It is considered that the proposed development would constitute overdevelopment of a restricted site, would be substandard in terms of residential amenity and private open space and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development, by reason of its siting, scale, bulk, height and proximity to adjoining established residential properties, would seriously injure the amenity of nearby residential property by virtue of overbearing impact on neighbouring residential properties to the rear. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Ref. D09A/0891 Permission GRANTED on 13 Oct 2010 to replace existing double A pitched roof with a new mansard type roof with windows to the front and rear, containing 2 no. single bedrooms, office staffroom, treatment room, canteen and ancillary accommodations, all at second-floor level and demolish existing conservatory to the rear and construct a new 2 storey and single storey extension containing 6 no. single bedrooms, 3 no. double bedrooms and ancillary accommodation and the formation of a new single vehicular entrance with ancillary site works.

P.A. Ref. D09A/0173 Permission REFUSED on 30 Apr 2009 for the proposed demolition of existing conservatory, single-storey side extension and 2 no. 2 storey returns to the rear and construction of a new two-storey and single-storey extensions containing 12 no. single rooms, 2 no. double rooms, dining room, day space and meeting room to the rear over a part basement with ancillary accommodation including staffroom, office, treatment rooms, oratory, stores and laundry with ancillary site works and formation of a new single vehicular entrance. The reason for refusal was as follows:

1. Having regard to the proposed extension, its overall density, configuration and orientation, and its interface and proximity to the existing residential home, (particularly the two-storey element), and that of the adjoining plot (particularly that to the east of the site); it is considered that the proposed development would, if permitted, seriously detract from the residential and visual amenity of future users of the facility and adjacent residential plots. The proposed extension is therefore considered to be overdevelopment of the site, and would be contrary to the proper planning and sustainable development of the area.

4.0 Policy and Context

4.1. Development Plan

4.1.1. The **Dún Laoghaire Rathdown County Council County Development Plan 2022-2028** is the statutory plan for the area.

4.1.2. Relevant provisions are referenced as follows:

Land Use Zoning: The site is zoned objective 'A', which seeks 'To provide residential development and improve residential amenity while protecting the existing residential amenities'. (Chapter 13, Table 13.1.2)

Section 4.3.2.1 Policy Objective PHP25: 'Housing for All - A new Housing Plan for Ireland, 2022'

Section 4.3.2.6: Policy PHP30: Housing for All

Section 4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity.

Section 4.4.1.8 Policy Objective PHP42: Building Design & Height

Section 5.7.4 Policy Objective T19: Car parking Standards

Section 5.8.6 Policy Objective T28: Road Safety

Section 8.7.1.2 Policy Objective GIB19: Habitats Directive

Section 8.7.1.4 Policy Objective GIB21: Designated Sites

Section 11.4.3.2: Policy Objective HER20: Buildings of Vernacular and Heritage Interest

Section 11.4.3.3: Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features.

Chapter 12: Development Management

Section 12.3 Neighbourhood - People, Homes and Place

Section 12.3.1 Quality Design

Section 12.3.1.1 Design Criteria

Section 12.3.4 Residential Development – General Requirements

Section 12.3.7.1 Extensions to Dwellings

Section 12.3.5.2 Separation Between Blocks

Section 12.3.8.2: Nursing Homes/ Assisted Living Accommodation

Section 12.4.1 Traffic Management and Road Safety

Section 12.4.2 Traffic and Transport Assessment (i) Assessment Criteria for deviation from Car Parking Standards (set out in Table 12.5)

Section 12.4.5.3 Car Parking – General

Section 12.4.5 Car Parking Standards

Section 12.4.5.1 Parking Zones

Section 12.4.5.2 Application of Standards

Section 12.4.5.6 Residential Parking

Table 12.5 Car Parking Zones and Standards

Section 12.4.6 Cycle Parking

Section 12.4.6.1 Requirements for New Development

Section 12.4.8 Vehicular Entrances and Hardstanding Areas

Section 12.8.4 Open Space - Quantity for Mixed Use, Non Residential and Commercial

Section 12.4.11 Electrically Operated Vehicles

Section 12.4.13 Emergency Access

Section 12.8.3.3 Private Open Space

Section 12.8.7.1 Separation Distances

Section 12.8.7.2 Boundaries

Section 13.1 Land Use Zoning Objectives

Table 13.1.1 Development Plan Zoning Objectives

Section 13.2: Definition of Use Classes

Appendix 3 Development Management Thresholds

4.2. **Other Relevant Government Policy / Guidelines**

National Planning Framework – Project Ireland 2040.

Housing for All - A new Housing Plan for Ireland

Development Management, Guidelines for Planning Authorities (2007)

OPR Practice Note PN01 - Appropriate Assessment Screening for Development Management' (OPR, 2021).

Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities' (2009)

Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE2011).

4.3. **Natural Heritage Designations**

4.3.1. The nearest Natura 2000 European Sites and proposed NHA's to the appeal site are as follows:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approx. 1 km to the north-west of the site.
- The South Dublin Bay Proposed Natural Heritage Area (Site Code: 000200), approx. 1 km to the north-west of the site.
- The Dalkey Coastal Zone And Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approx. 1 km to the north-east of the site.

4.4. **EIA Screening**

4.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the

separation distance from the nearest sensitive location, 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.

5.0 The Appeal

5.1. Grounds of Appeal

5.1.1. Third-party appeals against the decision of the Planning Authority were received from the following:

- Marston Planning Consultancy on behalf of Cait Delaney, ODPS Ltd., PO Box 13252, Dublin 18.
- Clare Duignan of No. 7 Clifton Court, Tivoli Terrace South, Dun Laoghaire, Co. Dublin.
- Cunnane Stratton Reynolds Land Planning and Design Consultants on behalf of Anne Milner of No. 7 Beech Homes, Tivoli Road, Dun Laoghaire, Co. Dublin.
- John Murphy, Architect on behalf of Graham and Fiona Mongey, of Glenbeigh, Tivoli Road, Dun Laoghaire, Co. Dublin.
- Ivan & Mary Sutton of Suncroft, No. 7 Tivoli Terrace South, Dun Laoghaire, Co. Dublin.

5.1.2. *Appeal by Cait Delaney*

5.1.2.1. **Negative impacts on residential and visual amenities at Clifton Court:**

- The proposed development will diminish the residential and visual amenities of the properties within the two eastern blocks of Clifton Court, which is located to the west of the site.
- Despite the revisions made to the scheme, the potential negative effects on the properties have not been adequately addressed.
- The balconies and courtyard serving three apartments located next to the nursing home will be directly and indirectly overlooked by the proposed development.

- Of particular concern is Room 21 on the first-floor extension, which will have a transparent glass window facing the balconies, and it will be c. 5m from these balconies and 10m from the windows on the side elevation of the neighbouring block.
- Additionally, the west-facing balcony on the second floor of Room 29 will overlook the rear open space of Clifton Court without any privacy screen.
- The proposed development will visually dominate the terrace and balconies, leading to a significant loss of natural light and sunlight in the affected apartments.
- Overall, the combination of these factors will have a detrimental impact on the residential amenity of the apartments in this section of Clifton Court.

5.1.2.2. **Vague height dimensions of the proposed development:**

- The applicant has provided unclear and insufficient information regarding the height dimensions of the proposed development.
- It is apparent that the first-floor extension adjacent to the boundary with Clifton Court will extend approximately 10m in length and rise c. 5m above the garden level of Clifton Court.
- This significant height difference will substantially detract from the overall amenity experienced by the residents of Clifton Court.

5.1.2.3. **Negative impact on the streetscape and surrounding area:**

- The proposed development lacks successful integration with the existing pattern of development in terms of layout, scale, and massing.
- As a result, it appears excessively dominant within the streetscape, especially when compared to the scale and character of the surrounding established developments, which are unlikely to change.
- The new connecting element between nos. 5 and 6 is positioned at the front building line of no. 6, and its scale competes with the historic form and massing of the area, detracting from the neighbouring properties on either side.
- There are no justifiable grounds to claim that the proposal positively contributes to the urban neighbourhood and streetscape.

- The rear and street views of the proposed development reveal an awkward form, particularly due to the position and height of the new connecting element, which strongly competes with the historic streetscape and appears overly dominant in the front elevation view.
- The scale, layout, block arrangement, and height of the proposed development will result in an overbearing nature, significant overlooking, loss of privacy, and serious injury to the established residential and visual amenities of Clifton Court residents.
- These factors are in material contravention of the residential zoning of the area.

5.1.2.4. **Poor quality Open Space:**

- Section 12.3.8.2 of the new County Development Plan requires nursing homes to provide a minimum of 20% open space of the overall site area.
- Section 12.8.4 of the Development Plan outlines the requirements for adequate and suitable open space in nursing home developments, including consideration of location, provision of at least 15 sqm per resident, utilisation of existing open space, accommodation of residents' needs, accessibility, and incorporation of age-friendly principles.
- The current scheme proposes bedspaces for 49 residents, requiring a minimum of 735 sq.m. of open space based on the 15 sq.m. per resident standard, or at least 300 sq.m. based on the 1,500 sq.m. site area.
- The application is significantly flawed regarding open space provision, as the submitted Open Space Drawing indicates a rear external area of 182.54 sq.m., but upon closer examination, the actual usable open space is only 96 sq.m (16.03m length and 6.08m width).
- Other areas included in the calculation are walkways and set-backs with no amenity value, which should be excluded.
- The front garden is smaller than initially stated (240 sq.m.), measuring only 131 sq.m. due to the presence of the emergency/loading area and ramped entry.
- Taking into account the northern alignment and lack of available open space nearby, the overall quantum of open space amounts to only 227 sq.m., falling significantly below the requirements of both Section 12.3.8.2 (20% minimum) and Section 12.8.4 (over three times lower than the requirement).

- The lack of open space is contrary to the County Development Plan and indicative of overdevelopment, especially considering the inaccessible undeveloped land to the north of the site.
- The Planning Authority's misinterpretation of open space provision, both in terms of quality and quantity, should lead to the Board overturning the decision and refusing permission based on the inadequacy of open space for future residents.

5.1.2.5. **Inadequate and insufficient car parking:**

- The provision of only 6 parking spaces, including 2 disabled spaces, is significantly deficient and indicative of overdevelopment on the site.
- The site falls within Zone 2 of the Parking Zones Map associated with the County Development Plan, and nursing homes are classified as residential institutions under the plan.
- According to the Development Plan, residential institutions should have a maximum of 1 parking space per 2 beds, which would require a maximum of 24 spaces in this case.
- Due to the lack of available on-street parking throughout the day, given the 24/7 operation of nursing homes and the need to accommodate daily visitors, there is a clear conflict between the required car parking and the inadequate number of on-site spaces and lack of on-street availability.
- This situation will likely result in either overflow parking or local residents losing amenity due to the loss of on-street parking.
- The significant lack of car parking will lead to serious traffic conflicts and overflow parking in neighbouring residential areas, making it reasonable for the Board to refuse permission based on this issue.

5.1.2.6. **Negative impact on the structural integrity of the boundary wall and neighbouring properties:**

- The residents of Clifton Court express concern about the construction impact resulting from the proposed development.

- Specifically, the construction of a basement within 1m of their shared boundary and the lowering of the ground level adjacent to the party boundary wall has the potential to adversely affect the structural integrity of their property.
- The applicant has not provided any structural analysis of the existing boundary wall and its ability to withstand potential interference.
- The applicant has also disregarded neighbouring ownership entitlement regarding the boundary wall and has submitted a proposal that involves significant demolition and reconstruction works, potentially increasing the height of the wall, to accommodate the ground level lowering within the site.
- These actions by the applicant completely overlook the negative impacts on the residential amenity of neighbouring property at Clifton Court.

5.1.2.7. **Inadequate noise impact assessment:**

- The noise and vibration assessment conducted by the applicant as part of their response to the Clarification of Further Information was flawed in several aspects.
- Instead of conducting noise monitoring at the periphery of the site, which is standard practice, the assessment was carried out at a centrally located point within the site.
- The applicant's failure to undertake a site investigation to understand how the basement construction would be executed raises concerns about the accuracy of their conclusions regarding noise and vibration impacts on neighbouring structures, including Clifton Court.
- Since the extent of the basement construction works is unknown and the site is known to be underlain by granite, the lack of consideration by the Council regarding these factors indicates a lack of thorough assessment of the application's construction impacts.
- It is unreasonable to accept the conclusions of the noise impact assessment, particularly when the applicant's consultants lack an understanding of the ground conditions and have not assessed the noise impact of vents and plant from the basement on the amenity area of Clifton Court and adjoining properties.

- The noise generated by such plant and vents in close proximity to the communal open space of Clifton Court will have a negative impact on the residential amenity of the area.
- Although noise and vibration impacts can be expected during construction, it is crucial for the assessment to be robust, which is not the case in this instance.
- The inadequate assessment indicates that there will be negative impacts on the residential amenity of Clifton Court during both the construction phase and the operational phase, primarily due to the extensive basement construction and the placement of plant adjacent to the rear communal area serving Clifton Court.

5.1.2.8. **Reduction in property values:**

- Considering the previously outlined reasons, including the significant negative impact on the appellant's residential amenity and the adverse effects on the setting of their property, it is evident that the proposed development would lead to a substantial reduction in the value of the appellant's property.
- If the Board were to uphold the permission as currently proposed, it is requested that a comprehensive structural survey of the appellant's property be conducted prior to the commencement of development to accurately assess any potential damage or impacts.

5.1.2.9. **Negative impact on the setting of historic buildings:**

- All three buildings hold architectural significance, and the proposed scale of the rear extensions will detract from their setting and their contribution to the historic built environment of the County, contrary to Policy Objective HER20 of the new County Development Plan.
- The scale of the proposed development will overdominate the rear form of each building, signifying an overdevelopment of the site and compromising their architectural integrity.
- The size and placement of the connecting element between buildings no. 5 and 6 will have a negative impact on the streetscape, further exacerbating the adverse effects on the setting of the historic buildings.

5.1.3. *Appeal by Clare Duignan*

5.1.3.1. **Failure to meet Dún Laoghaire-Rathdown County Council's listed criteria for nursing home developments:**

The proposal falls short of Dún Laoghaire-Rathdown County Council's criteria for nursing home developments in several significant aspects, as follows:

- The size and scale of the proposed development are inappropriate for the area, constituting an excessive over-development that would be overbearing and dominate the surrounding housing and apartments at the side and rear.
- Adequate provision of open space is a requirement according to Council guidelines, specifying a minimum of 15 sq.m per resident (County Development Plan 2022-2028 Sec 12.8.4). However, the proposed development provides only 320 sq.m of external open space, equivalent to just 43% of the minimum open space stipulated in the guidelines.
- Much of the open space mentioned in the application consists of narrow yards with high walls around the building perimeter, along with a small front "garden" area adjoining the car park and roadside. However, these spaces will be perpetually shaded by the high buildings to the south and cannot be considered high-quality open space. Consequently, the proposal fails to meet both the quality and quantity criteria and represents a significant deterioration compared to the already sub-standard conditions on the site.
- The reference to a large open space across the road to the north, which is privately owned and inaccessible to the public, is irrelevant to the provision of open space for future residents of the proposed nursing home.
- The internal communal space appears to be limited to a single large lounge, serving as the sole communal dining area. This arrangement is deemed wholly inadequate to meet the needs of future clients.
- In terms of parking facilities, the proposed development includes a total of 6 parking spaces, with only 2 designated as disabled-friendly, to accommodate 49 residents, staff, and visitors. This allocation appears unrealistic, particularly considering the

expected age profile of residents and their visitors. Additionally, on-street parking in the area is already at full capacity and often exceeds available spaces.

5.1.3.2. Potential impact on residential amenities of adjoining properties:

- The proposed three-storey extension near the western boundary would significantly diminish the aspect from the three apartments in Clifton Court that are closest to the proposed development. This extension would create a dark and gloomy canyon-like space, obscuring much of the skyline and severely reducing natural light in the rear living areas, balconies, patio, and amenity open space.
- The applicant's shadow drawings demonstrate that morning sunlight from dawn until noon would be lost to these apartments. Additionally, daylight and afternoon sunlight to these three apartments are already compromised by adjacent apartments to the west, and the proposed development to the east would further reduce these dwellings to a state of near perpetual darkness.
- The appellant is the owner of the ground-floor apartment in the block adjoining the proposed development, who will be particularly affected by the loss of light and experience a decrease in the value of the property.
- The plans indicate windows in the western elevation overlooking these neighbouring apartments, despite their absence from the relevant elevation drawings. This discrepancy raises concerns of misrepresentation by the applicant. The scale of the building, combined with the lack of privacy due to these windows, creates an overbearing visual presence and significantly encroaches upon the privacy of the shared communal garden at the rear of Clifton Court apartments.

5.1.3.3. Potential destabilisation of boundary wall and noise/vibration concerns:

- To accommodate the level of over-development, the applicant proposes a large basement near the western boundary adjoining Clifton Court apartments. However, the application lacks reassurance regarding the potential destabilisation of the boundary wall and surrounding lands resulting from the deep excavation.

- The general area is known to be underlain by hard granite, and the removal of such material, if present, would inevitably produce high levels of noise and potentially damaging vibrations over an extended period. There is no evidence to suggest that a substrate investigation has been conducted to evaluate this likelihood.

5.1.3.4. **Disproportionate construction project and disruption to residents:**

- It is doubtful that a development of this magnitude can be successfully carried out within the limited confines of the applicant's property on Tivoli Terrace South, as proposed in the applicant's Site Access and Management Plan.
- The scale of the development and the associated construction traffic, noise, vibration, and dust within such a tight site would cause significant daytime disruptions over an extended period. This disruption would particularly affect residents who may be working from home, shift-working, or experiencing illness.

5.1.4. Documentation submitted with the appeal includes floor plans of the proposed development and a shadow study for Apartment Nos. 7, 9 and 11 Clifton Court.

5.1.5. ***Appeal by Anne Milner***

5.1.5.1. **Negative impact on residential amenity:**

- Asserts that the proposed development will have a detrimental effect on the residential amenity of neighbouring properties, including the appellant who resides at No. 7 Beech Homes, Tivoli Road (located immediately to the south of the appeal property No. 5).
- Acknowledges the reduced massing of the development at the second-floor level compared to previous proposals.
- The increased separation distances between buildings improve on previous proposals. However, the appellant maintains that the proposed development still

represents an imposing and significant structure, resulting in a decrease in the residential amenity for the appellant and other neighbouring residents.

5.1.5.2. Oblique views of private open space:

- Raises concern about the inclusion of "blind bay" windows at the rear elevation, as mentioned in the planning report accompanying the application.
- States that these windows will create oblique views of the appellant's client's private open space, which will still be intrusive.

5.1.5.3. Shadowing and diminished enjoyment of the garden:

- Highlights the local authority's recognition that the proposed development will cast shadows over substantial parts of the appellant's property.
- Notes that this shadowing will diminish the enjoyment of their garden, with an estimated impact of one hour in the morning and one hour in the evening.

5.1.5.4. Unacceptable intensification and overdevelopment of the site:

- Contends that the proposed development still represents an unacceptable level of intensification and overdevelopment of the appeal site.
- Disagrees with the local authority's view that the proposal is more favourable compared to previously refused schemes, specifically P.A. Ref. D21A/0154.
- Believes that a favourable comparison to a previously refused scheme does not warrant granting planning permission for the current proposal.

5.1.5.5. Limited difference in ground floor layout and open space provision:

- Highlights the limited provision of open space or green areas, mostly consisting of paths between extensions and perimeter walls on the eastern and western sides.
- Submits that the open space in both the current proposal and the previously refused D21A/0154 scheme, as shown in Figure 3, is satisfactory for the rear of the proposed development.

- Compares the open space arrangement in both schemes to the one refused by DLRCC under P.A. Ref. 019A/0506 and ABP Ref ASP-306039-19, as presented in Figure 4.

5.1.5.6. Overdevelopment in terms of site coverage and proximity to boundaries:

- Raises concerns about the rear extension, which extends to 3.25 meters from the boundary along the southern side.
- Contends that this extension, regardless of its proximity to the boundary, represents an overdevelopment of the site in terms of site coverage.

5.1.5.7. Similarity in upper floor presentation to previously refused scheme:

- Presents sections through the site for P.A. Refs. D21A/0739, D21A/0154, and D19A/0506 in Figures 5, 6, and 7, respectively.
- Acknowledges the similarities between the proposed development and D19A/0506 (Figures 6 and 7 in submission) but contends that the subject scheme should be refused permission on the same grounds as P.A. Ref. D21A/0154.
- Submits that the provision of open space is not materially different between the latest applications determined by DLRCC, and the local Planning Authority should have refused permission.
- Expresses trust that the Board will also refuse permission based on these grounds.

5.1.5.8. Deficiency in open space and poor quality:

- Criticises the proposed development for its severe deficiency in the required quantum of open space due to excessive built form.
- States that the proposed open space lacks quality and usability, exemplified by a large rear courtyard area that would experience considerable shadow due to its width and length, flanked by three-storey and single-storey rear extensions on either side.

- Submits that the standard of accommodation would be unsatisfactory, with limited natural light in several rooms due to the applicant's attempts to limit overlooking of adjacent properties.

5.1.5.9. **Insufficient decrease in number of residents:**

- Notes that the current proposal reduces the number of sought-after rooms from 37 to 30 but only decreases the number of residents from 53 to 49.
- Expresses concern about overdevelopment, inadequate car parking, and open space, emphasising that the decrease in the number of residents is marginal and ineffective in addressing these deficits.
- The increase from 16 existing rooms to the overall proposed 46 rooms represents an unacceptable intensification of development on the site, unjustified by the physical built form and its impact on the locality.

5.1.5.10. **Detrimental effect on the character of the area:**

- Submits that the proposed development will have a detrimental impact on the character of the area.
- Describes the area as characterised by mature buildings in mature gardens, with reasonably modest extensions to existing surrounding buildings.
- Asserts that granting permission for the proposed development, as previously refused, would set an undesirable and harmful precedent.
- Examines the location plan showing nearby properties and highlights that the site coverage proposed is considerably higher than the existing properties, which could significantly alter the area's character.

5.1.5.11. **Insufficient parking provision:**

- Identifies the impacts on parking resulting from the proposal.
- Submits that providing only 6 no. parking spaces for a nursing home is wholly unsatisfactory.

- States that the proposed parking provision does not take into account the likely needs of visitors and staff, especially when travel is required outside of peak public transport services.

5.1.5.12. Contrary to Policy AR5 of the adopted County Plan:

- Contends that the proposal is contrary to Policy AR5 of the Development Plan, which aims to preserve older buildings that contribute to the character of the streetscape.

5.1.5.13. Impact of construction phase:

- Raises concerns about the considerable impact the construction phase will have on the area and neighbouring properties.
- Emphasises the inconvenience caused by large construction vehicles in a one-way system, affecting the area significantly.

5.1.5.14. Existing layout in keeping with the area's character:

- Refers to Figure 8 in the submission, which shows the existing layout that is more in line with the character of the area.
- Suggests that the existing layout could provide a reasonable amount of quality open space, contrasting with the proposed development.

5.1.5.15. Inadequate car parking provision:

- Raises concerns about the proposed inadequate car parking provision.
- States that only six parking spaces are proposed, which is deemed wholly insufficient for the anticipated number of residents, which is 49.
- Acknowledges that parking standards allow for flexibility, but emphasises that the proposed number of spaces is less than half of what the standard requires.
- Contends that the six spaces not only fail to meet the needs of 49 residents and their visitors but also neglects to consider the parking requirements for staff,

particularly for shift-based employees who may need to travel during shift handover times when public transport may not be available.

- Highlights that the overspill parking generated by the proposed development will cause parking stress on surrounding streets.
- Expresses concern about the scale of the development, which includes a substantial increase in residents to nearly 50 and the accompanying staff.
- Believes that the number of residents and staff associated with such a large operation, especially during the day, will exceed the parking demand of any other development in close proximity to the appeal site.

5.1.5.16. Inadequate volume and quality of open space:

- Asserts that the proposal is contrary to the policies and standards outlined in the adopted County Development Plan at the time of the planning application.
- Refers to the National Quality Standards for Residential Care Settings for Older People in Ireland, which highlight the need for adequate and suitable open space in nursing homes.
- States that the proposal fails to meet the requirement of providing at least 15 square meters of open space per resident unless otherwise agreed with the Planning Authority.
- Submits that the current rear garden space is already inadequate for the existing residents, and further development would restrict the available open space, providing even less space for a significantly higher number of residents.
- Highlights that the volume of open space was a significant reason for the refusal of previous applications.
- Submits that the proposed open space is even lower in volume and inferior in quality and accessibility compared to the previous courtyard arrangement.
- Notes that the acknowledged 442 sq.m. of open space, instead of the originally stated 750 sq.m., falls well short of the standard of 15 square meters per resident.

- Emphasises the regrettable situation of an existing deficiency in open space for current residents, which should not be worsened for both existing and prospective residents.
- Contends that the proposal is contrary to Section 8.2.8.2 (ii) (Public/Communal Open Space) of the adopted County Development Plan.

5.1.5.17. Demolition of mews building contrary to Policy AR5:

- Submits that the demolition of the mews building, considering its context with the adjacent period building and the overall overdevelopment of the appeal site, is contrary to Policy AR5.
- Quotes policy AR5, which seeks to retain and enhance older buildings contributing to the streetscape, emphasising that the retention and reuse of such buildings add to the streetscape and sense of place.

5.1.5.18. Contrary to Zoning Objective A:

- Contends that the appealed scheme does not comply with Zoning Objective A of the Dun Laoghaire Rathdown Development Plan 2016-2021, which aims to protect and/or improve residential amenity.
- Submits that the proposed scheme would negatively affect residential amenity, as outlined previously.
- Suggests that the prospective amenity for future residents of the existing facility would also be harmed rather than protected or improved, contrary to the objective of Zoning Objective A.
- States that the proposal fails to fulfill the purpose of protecting or improving residential amenity, making it contrary to the zoning of the site.
- Mentions that the emerging County Plan also zones the appeal site for Zoning Objective A with similar objectives.

5.1.6. ***Appeal by Graham and Fiona Mongey***

5.1.6.1. **Previous refusal by An Bord Pleanála:**

- Points out that the proposal to develop a new nursing home at the current location has been previously refused by An Bord Pleanála (under ABP Ref. 306039-19) due to the scale of the proposed development.
- Highlights that the Planning Inspector had concerns regarding the visual impact of the proposal and the amount of open space.
- Quotes the Planning Inspector's observations under ABP Ref. 306039-19, stating that the proposed development would be overbearing and visually intrusive when viewed from the gardens and rear windows of neighbouring property, seriously affecting their visual amenity.
- Notes the Inspector's observations that the proposal would result in diminished open space, falling below the applicable standards set in the Development Plan and failing to provide acceptable amenity for the occupants of the proposed development.
- States that this remains the case with the new application, and the overshadowing of the rear garden of Glenbeigh, albeit reduced from the previous scheme, still occurs.

5.1.6.2. **Significant increase in the number of bedrooms:**

- Notes that the proposed development represents a 187% increase in bedrooms, from 16 to 46.
- Considers this to be a very large intensification of use, likely driven by demands from HIQA (Health Information and Quality Authority) to meet their standards and critical mass for nursing homes.
- Submits that such a significant increase in scale and capacity is not suitable for locations in built-up or old residential areas, unless there is a substantial site available to accommodate the required facilities and support areas demanded by HIQA.

5.1.6.3. Limited site size for the proposed development:

- Highlights that the overall site area is 1500 square meters, which is deemed insufficient for the scale of development proposed, including the necessary accommodation and associated site works.
- Mentions specific requirements such as staff/visitor car parking, waste management, outdoor facilities, etc.

5.1.6.4. Overdevelopment and impact on residential and visual amenity:

- Asserts that the proposed development, due to the significant increase in the number of bedrooms, cumulative scale, layout, and proximity to adjoining site boundaries, would result in overdevelopment of the site.
- States that it would unduly impact the residential and visual amenity of neighbouring dwellings.
- Claims that permitting such a development would set an undesirable precedent for similar projects in the area.
- Contends that the proposed development would seriously harm the amenities and/or devalue properties in the vicinity, which is contrary to the principles of proper planning and sustainable development in the area.

5.1.6.5. Failure to address planning criteria:

- References Section 8.2.3.4 (xiii) of the 2016-2022 Dun Laoghaire-Rathdown County Development Plan, which outlines the criteria to be considered for nursing home facilities.
- Argues that the proposed development fails to address the criteria, including the impact on residential amenities, provision of adequate open space, parking facilities, design and proposed materials, appropriate size and scale, and proximity to public transport and footpath links.

5.1.6.6. Insufficient provision of open space:

- Notes that the Development Plan sets a requirement of 15 sq.m of open space per resident.
- Highlights that with 46 rooms and 49 bed spaces proposed, the open space requirement would be 735 sq.m.
- Points out that the proposed development only provides approximately 422 sq.m of external open space, which is only 57% of the required open space.
- Criticises the Planning Authority for accepting this inadequate provision, which contradicts their own guidelines.

5.1.6.7. Inadequate parking provision:

- Raises concern over the proposed provision of only 6 parking spaces for staff and visitors, despite the facility accommodating 49 residents.
- Argues that a larger number of car parking spaces is necessary to cater to the needs of staff and visitors.

5.1.6.8. Inappropriate size and scale:

- Contends that the size and scale of the proposed development is not suitable for the area, considering the facilities being proposed.
- Mentions concerns about the shadow study analysis, which shows the garden completely in the shade by 8 o'clock on the 21st June, impacting the residential amenity of Glenbeigh.
- Concerns regarding the design, particularly the large-scale glazed windows facing the rear gardens of Tivoli Road, which are deemed intimidating, and the three-storey proposal being overbearing relative to the existing houses on Tivoli Road.

5.1.7. Appeal by Ivan & Mary Sutton

5.1.7.1. Inadequate site size for the proposed development:

- States that the site, measuring 0.15 hectares, is too small to accommodate a development of 30 new bedrooms.

5.1.7.2. Lack of conditions regarding noise insulation:

- Raises concern that the planning permission does not include any conditions regarding additional insulation to reduce noise from the medical bedrooms, which will be adjoining the appellant's bedrooms.

5.1.7.3. Absence of site boring for rock assessment:

- States that no site boring was conducted to assess the presence of rock on the site.
- Concerns re. potential damage to the adjoining house.
- Expresses fear that vibrations from the construction could damage the appellant's house, which is a semi-detached property adjoining another house (No. 6).
- Highlights concerns about potential damage to the appellant's house built in 1942 and the potential of setting off alarms.
- Provides evidence of existing cracks in the house through attached photos.

5.2. Applicant Response

5.2.1. The response received from Manahan Planners Consultants representing the Applicant, is summarised under the headings below:

5.2.1.1. Previous Planning History:

- The applicant has owned and operated the nursing home for over 20 years and has been actively engaged with the planning process and the local authority.
- The remark made by one appellant suggesting a process of attrition initiated by the applicant over many years has caused distress, as the applicant believes they have positively and transparently engaged in the planning process.
- The applicant has participated in two Pre-Application Consultations (PAC. 136/21 and PAC. 164/21) related to the current development application and has responded to requests for further information.

5.2.1.2. **Overlooking/Overshadowing:**

- The proposed development has been thoroughly assessed by Dún Laoghaire-Rathdown County Council.
- The ground floor extension to the rear maintains a separation distance of c. 3.3 meters from the site boundary and 14.6 meters from the rear elevation of the neighbouring property.
- The height of the ground floor extension is similar to the existing boundary wall, ensuring it does not have a significant impact on the neighbouring property.
- The Planning Authority Report states that the proposed development would be visually acceptable overall and would not negatively affect neighbouring properties in terms of visual impact or overbearing presence.
- The Planning Authority report states that separation distances of c. 23-27 meters are shown between the upper floors of the proposed extensions and the main rear elevations of the neighboring properties, ensuring an acceptable visual impact.
- The applicant submitted Shadow Cast Studies as requested by the local authority, indicating no notable additional overshadowing on neighbouring properties. Existing overshadowing is primarily caused by high boundary walls between properties.

5.2.1.3. **Usability of Communal Open Space:**

- The proposed development includes c. 422 sq.m. of external communal spaces (c. 240 square meters in the front and c. 182 sq.m. at the rear).
- The calculation does not include internal communal areas.
- A map illustrating the communal areas of the proposed development is provided.
- The design team has carefully considered the layout and design of the communal spaces to provide high-quality amenity space for the nursing home residents while respecting the residential amenity of neighbouring properties.
- The Area Planner's assessment acknowledges the acceptability of the proposal in terms of communal open space, given the site context.

- The Planning Authority report noted that the increased area of front garden space would have more amenity value and the size, dimensions, and distribution of external space are deemed acceptable.

5.2.1.4. **Quality of Rooms:**

- The nursing home has been operating on the site for over 30+ years, and the renovation and expansion are necessary to maintain its viability and comply with HIQA regulations and guidance.
- All rooms will be ensuite and designed in accordance with HIQA size and design standards, ensuring the quality of the accommodation.

5.2.1.5. **Parking:**

- The Dun Laoghaire Rathdown Development Plan sets parking standards at 1 space per 4 residents, resulting in a maximum of 14 car parking spaces. Currently, there are 6 surface-level car parking spaces on-site, including 2 disability accessible spaces.
- Most staff members reside in the surrounding area and commute on foot, bicycle, or public transport. The on-site parking is primarily intended for visitors to the nursing home.
- The Council's Transportation Planning Department considers the proposed 6 car parking spaces acceptable, noting the presence of existing on-street parking bays on Tivoli Terrace South.

5.2.1.6. **Construction Noise and Vibration:**

- Third-party concerns regarding construction and operational noise impacts were addressed as part of the Request for Further Information (FI).
- The applicant appointed an environmental acoustic engineer to assess the noise and vibration impacts during the construction and operational phases.
- The Noise & Vibration Report incorporated specified criteria and mitigation measures for short-term construction phases, which were then included in a revised Construction Environmental Management Plan (CEMP).

- In the long term, the proposed development is not expected to be intrusive or cause significant noise effects, provided that the listed mitigation measures are followed, particularly concerning proposed plant installations like the new heat pump.
- The application is for an extension to an existing nursing home, which is considered a socially necessary use, especially with the ageing population.
- The Board should give due weight to the acceptability of this use in principle.
- The building has been used as a nursing home for the past 20 years and previously served as a maternity home for 80 years, establishing its institutional non-residential use in the residential area.
- Upgrading the existing facility has been attempted through previous planning applications but was refused due to site limitations. As a result, the neighbouring property was acquired to expand and create an appropriate nursing home within the context of both properties.
- The proposed site location aligns with the development plan requirements for nursing homes to be situated within existing residential areas with access to local services.
- The nursing home is conveniently located near the amenities of Dun Laoghaire Town Centre, allowing active residents to walk and utilise the facilities while providing the family of residents the opportunity to bring them to avail of local services. On-street pay and display parking is plentiful on Sundays, which is a popular day for family visits.
- The Planning Authority thoroughly assessed the application and made necessary adjustments to the proposal to ensure consistency with the proper planning of the area and protection of residential amenities.
- Despite these accommodations, adjoining residents continue to object and have appealed the expansion of the premises.
- It is submitted that the Planning Authority's actions and the applicant's responses have resulted in a proposal that can provide high-quality accommodation for current and future residents while safeguarding the amenities of neighbouring residents.
- It is submitted that the favourable considerations for the proposal outweigh the objections of neighbouring residents.

- The applicant calls upon the Board to grant permission for this necessary and appropriate facility, emphasizing that it would be consistent with the proper planning and sustainable development of the area.

5.3. **Planning Authority Response**

5.3.1. The Planning Authority did not respond to the grounds of appeal within the statutory time period.

5.4. **Observations**

5.4.1. Third-party observations were received from the following parties;

- Frank Finnegan of No. 2 Balally Hill, Dundrum, Dublin 16.
- Colin Walsh of No. 19 Blackthorn Court, Sandyford, Dublin 18.
- Marina Byrne of No. 27 Fitzgerald Park, Monkstown, Co. Dublin.
- Tommy Walsh of No. 2 Queen Road, Masters Cottage, Dún Laoghaire.
- Clare Finnerty of No. 4 Lancaster Road, London, England.
- Margaret Kyne Delaney of No. 58 Balally Park, Dundrum, Dublin 16.
- Stuart Kyne Delaney of No. 12 Dromartin Castle, Birches Lane, Dundrum, Dublin 14.

5.4.2. Issues raised in these observations are summarised below accordingly.

5.4.3. **Observation by Frank Finnegan**

- The site has been used as a nursing home since the late 1940s, predating planning legislation. The increasing need for nursing care in society is emphasised due to advancements in medical care and extended lifespans.
- The previous refusal of permission on appeal under ABP Ref. 306039-19 listed six points, but the current application addresses and overcomes those concerns. The two-storey structure has been removed from the southern boundary and relocated

11.22 meters away. The setback of the single-storey structure from the boundary wall has also been significantly increased.

- Non-compliance with private open space standards was stated as a reason for the previous refusal, but it was accepted by the Planning Authority that the existing open space, including rear courtyards and front gardens, would be an improvement under the subject application. The Planning Authority is satisfied that the development plan requirements have been met, and it is hoped the Board will agree.
- Other items, such as the structure in front of houses, mansard roof, and widening of vehicular accesses, are no longer part of the proposal.
- The existing premises require upgrading to comply with HIQA 2016 requirements. The applicant highlights that the nursing home serves the local area, and many others in the Dun Laoghaire region have been upgraded and extended with planning permission. Upgrading is necessary to meet present-day standards and ensure viability.

5.4.4. Observation by Colin Walsh

- The observer expresses that they have a positive view of Aclare Nursing Home, where they can visit their family member. They hope that An Bord Pleanála grants permission for the proposed development.
- The nursing home has been an integral part of the community for at least 35 years and should continue to exist as a valuable service.
- Like any business, the nursing home needs to upgrade and expand to adapt to changing times.

5.4.5. Observation by Marina Byrne

- The observer states that a close relative resides in the nursing home at Tivoli Terrace South.
- The plans for the nursing home are impressive. The rooms will be larger, and the addition of a lift will improve accessibility for individuals who cannot walk.
- During the pandemic, various performances were conducted in front of the nursing home, allowing residents to remain connected to the community while

maintaining social distancing. The observer could also visit their relative through window visits and sit outside the front of the nursing home.

- The proposed plans include an attractive garden area in front of No. 6, which would allow them to continue meeting their relative even if visiting restrictions were reinstated due to a pandemic.
- They express satisfaction with the service provided by the nursing home staff and hope that the application will be favourably considered.

5.4.6. Observation by Tommy Walsh

- The observer identifies themselves as a relative of a resident who has been living in Aclare Nursing Home for several years.
- The new extension will not only add bedrooms but also provide essential facilities such as a new lift, treatment room, dining areas, and larger rooms with ensuite facilities. These facilities are crucial for the residents' well-being.
- Praise is given to the owners and staff of the nursing home, emphasising their compliance with HIQA regulations. The nursing home serves as an important community service.
- The Aclare Nursing Home offers ample walking space, comfortable seating areas, and walkways for the residents.
- An Bord Pleanála is urged to grant permission for the proposed development.

5.4.7. Observation by Clare Finnerty

- The observer's mother has been a resident of Aclare Nursing Home for several years. They have visited multiple nursing homes in the past and believe that Aclare stands out in terms of atmosphere and care provided.
- They express sadness regarding the ongoing objections raised against the development of the nursing home. They question whether the objectors have ever visited Aclare and witnessed its wonderful, homely environment. They also doubt if any issues related to noise, traffic, or unsociable behavior have occurred from the nursing home.

- The observer perceives the objections as "not in my backyard (NIMBY)" sentiment rather than genuine concerns. They question the fairness of raising new objections even after significant changes have been made to address the original concerns.
- When a loved one resides in a nursing home, the primary desire is for them to receive the best quality care and surroundings. It is reasonable to expect the owners of Aclare to aspire to provide that.
- The observer views the proposed development as well-considered and expresses hope that it will be granted permission.

5.4.8. **Observation by Margaret Kyne Delaney**

- The observer's mother has been a resident of Aclare Nursing Home for the past three years, and it is considered her home.
- The observer acknowledges the concerns raised by neighbours regarding the proposed development but emphasises the importance of considering the views and needs of the 27 residents who call Aclare Nursing Home their home.
- The proposed development offers an enhanced quality of life for the residents, with features such as new lifts, treatment rooms, larger rooms, and ensuite facilities.
- An Bord Pleanála is urged to consider the impact of refusing permission for the proposed development on the current and future residents' quality of life in the nursing home.
- Reference to a recent decision regarding a nursing home extension in Roseville, where the inspector concluded that it would improve the quality of care for nursing home residents. The same would be true for the residents of Aclare nursing home.
- The adjustments made under the subject application have taken into account the concerns of local residents and offer a reasonable compromise.

5.4.9. **Observation by Stuart Kyne Delaney**

- The observer's grandmother has been a resident of Aclare Nursing Home for the past three years and considers it her happy and safe home.

- The observer acknowledges the concerns raised by neighbours regarding the proposed development but emphasises that the needs of the vulnerable residents should be the primary consideration.
- The observer highlights the importance of providing adequate, safe, and tailor-made facilities for the aged in the community. The proposed development will enhance the residents' quality of life and ensure the highest quality of care.
- The proposed development includes provisions such as new lifts, treatment rooms, new dining and sitting areas, larger rooms, and essential ensuite facilities to improve mobility and create safe and enjoyable spaces for the residents.
- An Bord Pleanála is requested to consider the potential adverse impacts of refusing permission for the development on the quality of life of the residents. Discounting these critical improvements would indicate a lack of genuine care for the residents and the vulnerable in society.
- Reference to a recent decision regarding an extension at Roseville Nursing Home in County Wicklow, where the inspector concluded that the project would improve the quality of care for nursing home residents. The observer expects the same level of compassion and foresight in considering Aclare Nursing Home's efforts to provide better care.
- The adjustments made to the proposed development have taken into account the residents' concerns and offer a reasonable compromise between the objections raised by a few local residents and the needs of the nursing home residents.
- The proposed development will provide for the needs of the residents of the nursing home and strongly urge the granting of planning permission.

5.4.10. **Observation by Constantine O'Leary**

- Land registry Folio and Map submitted showing the appeal site. Extent of land ownership and property discussed.
- Mortgage registered in the registry of deeds submitted. Transfer of ownership to the applicant Breege Muldowney queried.
- Ownership of the site, as detailed in the application form is queried.

5.5. Further Responses

5.5.1. Further to the Appeal submissions, a further response was received from Cunnane Stratton Reynolds on behalf of Anne Milner of No. 7 Beech Homes, Tivoli Road, Dún Laoghaire, Co. Dublin. Comments raised in this submission are summarised below accordingly.

5.5.1.1. Re. Appeal by Ivan and Mary Sutton:

- Support their contention that the proposal lacks sufficient consideration of potential substrate rock and its impact on amenity, construction, and the environment.

5.5.1.2. Re. Appeal by Graham and Fiona Money:

- They state that the proposed development, although less impactful than a previous scheme (ABP Ref. 306039-19), is still overbearing and visually obtrusive from the rear gardens and windows of the appeal site.
- Agree with concerns regarding significant shadow cast over Glenbeigh and the absence of a shadow assessment in March.
- Note their submission that the provided open space is considerably diminished compared to previous standards and falls below acceptable levels.
- Agree with the appellants that the proposal represents overdevelopment and would result in a significant deterioration compared to the already substandard situation on site.
- Note their submission that the impact on Clifton Court will be significant, as it would remove sunlight from dawn to noon for the residents.
- Criticise discrepancies between proposed floorplans and elevational drawings, suggesting that windows in the western elevation are not accurately depicted, underestimating the impact in terms of overlooking.
- Note the appeal submission that the proposed development is disproportionate to normal construction projects in a residential area, involving a considerable amount of construction in a constrained and built-up location, and almost doubling the number of residents (187%).

- Concur that there is a substantial amount of glazing, necessary for improved accommodation standards, but raise concerns about inadequate internal levels of natural light and poor proposed standards of accommodation.
- Agree with other appellants' concerns about inadequate parking, stating that six spaces for nearly 50 residents, visitors, staff, and tradespeople are insufficient regardless of the availability of public transport.

5.5.1.3. **Summary of Clifton Court Management Company's Appeal Submission:**

- The open space to the rear of the proposed development is considered insufficient, with only 96 sq.m. excluding pathways between the blocks. Room 21 on the first floor overlooks two balconies and the courtyard of Clifton Court, with a proximity of approximately 5 meters to the nearest balcony.
- Concur that the layout, scale, and massing of the proposed development are deemed to be out of character with the surrounding area.
- Shadow impact is raised as a concern, both to the north and the open space within the development. The absence of a shadow assessment for March 21st, which is considered best practice, is noted.
- The open space provision is deemed contrary to the relevant sections of the adopted County Development Plan, reflecting overdevelopment. The Planning Authority's interpretation of the open space provision is criticised by the third party.
- Concerns are expressed about the structural integrity of the boundary wall and the proximity of a basement to the shared boundary of Clifton Court and the appeal site. The lack of structural assessments and site investigations raises further concerns, including the presence of underground rock and its potential impact on construction and noise.
- The inadequacy of open space for existing and proposed residents is a common concern raised in many other third-party appeals. Reference is made to a HIQA report from July 2021, which highlights residents' enjoyment of gardening, spending time in the garden, and meals in the conservatory. The potential demolition of the conservatory and substantial reduction of open space in the proposed development are seen as detrimental to residents' quality of life.

- The further response submission urges the Board to consider these points in the determination of the appeal.

6.0 **Assessment**

Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Overlooking
- Overshadowing
- Scale, Design and Visual Impact
- Open Space Provision
- Car Parking Provision
- Potential Impact on the structural integrity of neighbouring property
- Impact of Noise and Construction Activities
- Potential reduction in property values
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

6.1. **Overlooking**

- 6.1.1. Several appellants have expressed concerns regarding overlooking and the potential impact of the proposed development on the residential amenity of neighbouring properties.
- 6.1.2. Cait Delaney has raised concerns about the balconies and courtyard serving three apartments in Clifton Court adjacent to the nursing home, emphasising that they would be directly and indirectly overlooked by the proposed development. Specific elements of concern include Room 21's transparent glass window facing the balconies and the

west-facing balcony of Room 29, which overlooks the rear open space of Clifton Court without a privacy screen.

- 6.1.3. Clare Duignan submits that the proposed windows in the western elevation would overlook neighbouring apartments, encroaching upon their privacy and affecting the shared communal garden.
- 6.1.4. Anne Milner raises concerns about the inclusion of "blind bay" windows in the proposed development, as mentioned in the planning report submitted with the application. The appellant submits that these windows will create oblique views of private open space, intruding upon their privacy at adjoining property No. 7 Beech Homes, Tivoli Road, to the south.
- 6.1.5. In response to the grounds of appeal regarding overlooking, the applicant disputes the concerns raised. The applicant submits that the proposed ground floor extension to the rear maintains an adequate separation distance of approximately 3.3 meters from the site boundary and 14.6 meters from the rear elevation of the neighbouring property. Furthermore, the applicant highlights that the height of the ground floor extension is similar to the existing boundary wall, minimising its impact on the neighbouring property. The applicant refers to the Planning Authority report, which recognises separation distances of c. 23-27 meters between the upper floors of the proposed extensions and the main rear elevations of neighbouring properties, ensuring an acceptable visual impact. Based on these considerations, the applicant asserts that the concerns regarding overlooking are adequately addressed through appropriate separation distances.
- 6.1.6. The Planning Authority, in its first report, raised several concerns and made recommendations regarding the proposed development. They noted that the narrow windows on the proposed rear elevations of the rooms may limit overlooking of adjacent properties but could also result in limited daylight for future residents. It was recommended that this issue be addressed through Further Information (FI) to ensure the amenity of the residents.
- 6.1.7. Regarding the separation distances from the proposed extensions to the west and east boundaries, the Planning Authority found them generally acceptable, considering the height of the rear extensions. The upper floors of the central and east side rear

extension wings had separation distances of approximately 23-27m from the main rear elevations of the Tivoli Road houses to the south.

- 6.1.8. Further information was requested to address other related matters, such as providing clarity regarding window proposals, to allow for a more comprehensive consideration of the proposal. The windows facing the Clifton Court apartments open space were generally acceptable in terms of their use and separation distances from the side boundary. However, the proposed side elevations did not clearly indicate the various openings shown on the west and east (side) elevations in the floor plans. Further clarification was needed regarding the proposed detailing of the windows, specifically whether clear or opaque/obscured glazing was proposed.
- 6.1.9. The re-directed bay on the upper floor rear elevations, featuring large opaque glass and narrow single windows, was noted to help limit potential overlooking of adjacent properties but may offer limited daylight for future residents. The Planning Authority raised concerns about several bedroom windows being relatively narrow in size and recommended that the Applicant address these concerns through Further Information (FI), potentially by exploring the provision of additional windows such as high-level or re-directed windows.
- 6.1.10. To address these concerns and discrepancies, the Planning Authority requested the Applicant to submit revised proposals. The requested revisions included addressing the quality and level of daylighting to future residents' bedrooms, providing additional windows or alternative solutions, clearly indicating all proposed windows on the side elevations, specifying the type of glazing proposed, and ensuring correct drawing scales at 1:100.
- 6.1.11. The Planning Authority sought clarity regarding apparent discrepancies in the submitted planning drawings and expressed concerns about the level of daylight available to some of the proposed bedrooms. The Applicant was requested to submit revised proposals that address these concerns, including providing additional windows, revising the side elevations to show all proposed windows, and clearly indicating the type of glazing proposed for the large central, rear elevation corridor windows.
- 6.1.12. In the second report, in response to further information submitted, the Planning Authority acknowledged the applicant's response to Item No. 1a and 1b, which

included revised drawings addressing concerns regarding window modifications. However, there were discrepancies in the revised drawings, such as a missing window on the west side elevation and ambiguity regarding the glazing type of certain windows. The Planning Authority noted that additional windows were included in the revised drawings, addressing previously omitted windows and widening existing ones. The Planning Authority highlighted the need for clarification on the missing window and the glazing type of certain windows, recommending a request for Clarification of Further Information (CFI). The applicant submitted Clarification of Further Information response letters and revised drawings addressing the issue of overlooking. The revised drawings showed the addition of a rooflight and a narrow WC window, both with opaque glazing, as indicated in the FI response. Some inconsistencies in the detailing of proposed windows were noted, but the Planning Authority considered these issues addressable through conditions.

- 6.1.13. Based on the considerations above, an assessment of car parking provision is required.
- 6.1.14. The proposed development comprises a part single, two and three-storey extension to the rear of the subject property. The proposed ground floor extension would maintain a separation distance of c. 2.1m from the western boundary, 2.0m - 3.29m from the southern boundary, and 1.3m from the eastern boundary. Existing boundary walls to the sides and rear are to remain.
- 6.1.15. The proposed first-floor extension would maintain a separation distance of c. 3.67m from the western boundary, c. 5.5m - 10.5m from the southern boundary due to the stepped rear footprint) and 9.4m for the most part from the eastern boundary. The western side elevation incorporates 2 no. narrow opaque glazed windows serving w.c.'s and a floor-to-ceiling clear glazed window ope serving bedroom no. 21. The eastern side elevation incorporates 2 no. narrow opaque glazed windows serving a w.c. and stairwell and a floor to ceiling clear glazed window ope serving bedroom no. 24. The rear southern elevation incorporates projecting bay serving Room No. 22, with side-facing windows to both sides. The west-facing window would maintain a separation distance of c. 5.5m from the western side boundary. A similar bay window is provided to the rear serving Room No. 23 with an east-facing window maintaining a separation distance of c. 13m from the eastern side boundary. Clear glazing is provided to a large window ope serving a circulation area hallway. Separation

distances from the rear elevations of properties to the south along Tivoil Road range from 19.4m to 23.4m.

6.1.16. The proposed second-floor extension would maintain a separation distance of c. 5.7m from the western boundary, c. 5.5m - 15.5 m from the southern boundary due to the stepped rear footprint, and 9.4m from the eastern boundary. The western side elevation incorporates an opaque glazed window serving a circulation area and the eastern side elevation incorporates 2 no. narrow opaque glazed windows serving a w.c. and stairwell and a floor-to-ceiling clear glazed window open serving bedroom no. 40. The southern rear elevation incorporates a projecting bay serving Room No. 38, with side-facing windows to both sides and an opaque glazed window serving a w.c. facing south. The west-facing window would maintain a separation distance of c. 7m from the side western boundary. A similar bay window is provided to the rear, serving Room No. 39 with an east-facing window maintaining a separation distance of c. 13m from the eastern side boundary. Clear glazing is provided to a large window open serving a circulation area. I note the Planning Authority identified that this appears glazed with obscure glazing, but this is not clearly specified, unlike other windows clearly specifying the provision of obscure glazing. Separation distances from the rear elevations of properties to the south along Tivoil Road range from 22.1m to 28.5m.

6.1.17. Having regard to the layout of neighbouring property, it is noted that the adjoining property to the west, Clifton Court, incorporates apartments with balconies at first and second floor level and a patio area at ground floor level, adjoining the subject site boundary. Furthermore, a block within Clifton Court extends to the south, with its rear eastern building line maintaining a setback of c. 9m from the side boundary shared with the appeal site. I noted during site inspection that the east-facing elevation of this block incorporates 1 no. window at each floor level. It was unclear from site inspection if these windows served habitable rooms or bathrooms.

6.1.18. Section 12.3.5.2 of the Development Plan refers to 'Separation Between Blocks' and states the following:

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.

6.1.19. Having regard to the layout and design of the proposed development, I am satisfied that a minimum separation distance of 22 metres would be maintained between first and second-floor window opes to the rear of the proposed development and neighbouring property to the south and east. However, a separation distance of only 12.6m would be maintained between Room No. 21 at second-floor level and the opposing east-facing window opes of the opposite block in Clifton Court. I acknowledge the appellant's concerns regarding the overlooking of balconies and open space to the rear of Clifton Court. Having regard to the minimum 22m separation distance required between opposing blocks, as required under Section 12.3.5.2 of the Development Plan and in consideration of the private balconies to the rear/south of the block in Clifton Court adjoining the appeal site, I consider it appropriate that in the event of a grant of permission, a condition should be imposed requiring that the window ope serving Room No. 21 be glazed with obscure glass and that Room No. 21 not be used as a habitable room. The terms of this condition would alleviate concerns regarding overlooking of habitable rooms and private balconies in Clifton Court. Other windows on the western side elevation of the rear extension would be glazed with obscure glass, and therefore, overlooking from these window opes would not occur. It is worth noting that there are no specific residential standards requiring minimum separation distance between proposed developments and private amenity spaces in the Development Plan or relevant planning guidelines. On this basis, I am of the view that the west-facing bay windows serving Room Nos. 22 and 38 at first and second-floor levels are acceptable. Should the Board think otherwise, a Condition

could be imposed requiring that the west-facing opes of Room Nos. 22 and 38 be glazed with obscure glass.

6.1.20. Overlooking from the ground floor window opes to the rear of the proposed development would not occur by reason of the ground levels to the rear of the site, and the existing side and rear boundary walls, 2-3m high, would be maintained. I note that the Planning Authority imposed a Condition requiring that the large clear glazed window opes on the rear southern elevation of the proposal at first and second-floor level, serving internal circulation areas, be glazed with obscure glass. Given that these window opes would be c. 16m from the southern boundary and c. 28m from the rear elevation of the neighbouring dwelling to the south, No. 7 Tivoli Road, I do not consider that significant overlooking would occur and that in the interest of the residential amenity of the residents of the nursing homes, these windows should not be glazed with obscure glass. Privacy screens to the southern sides of the balconies serving Room Nos. 23 and 39 would prevent overlooking of neighbouring property to the south from these balconies.

6.1.21. In conclusion, I am of the view that subject to conditions, the proposed development would not adversely impact the residential amenity of neighbouring property by way of overlooking and should not be refused permission on these grounds of appeal.

6.2. Overshadowing and Overbearing Impact

6.2.1. Several appellants have raised concerns regarding overshadowing, loss of daylight, and the potential impact of the proposed development on the residential amenity of neighbouring properties.

6.2.2. Cait Delaney expresses concern that the proposed development would visually dominate the terrace and balconies of the apartments in Clifton Court, which are situated next to the nursing home. This dominance would result in a significant loss of natural light and sunlight in the affected apartments.

6.2.3. Clare Duignan submits that the proposed three-storey extension near the western boundary would have a substantial negative effect on the three apartments in Clifton Court that are closest to the proposed development. This would lead to a dark and gloomy environment, reducing natural light in the rear living areas, balconies, patio, and amenity open space. The appellant highlights that these apartments would lose

morning sunlight from dawn until noon, and their existing daylight and afternoon sunlight are already compromised by adjacent apartments to the west. The proposed development would further diminish natural light, resulting in a state of near-perpetual darkness. The owner of the ground-floor apartment adjoining the proposed development would be particularly affected by the loss of light and potential decrease in property value.

- 6.2.4. Anne Milner, residing at No. 7 Beech Homes, Tivoli Road, points out that the local authority has acknowledged that the proposed development will cast shadows over significant parts of the appellant's property. The appellant notes that this shadowing would diminish the enjoyment of their garden, with an estimated impact of one hour in the morning and one hour in the evening.
- 6.2.5. Graham and Fiona Mongey, residing at Glenbeigh, Tivoli Road, express concern about overshadowing of the rear garden of their property. Although the overshadowing has been reduced compared to the previous scheme under ABP Ref. 306039-19, it is still a cause for concern. The appellants highlight the results of the shadow study analysis, which shows the garden being completely shaded by 8 p.m. on the 21st of June, significantly impacting the residential amenity of Glenbeigh.
- 6.2.6. The Applicant contests these grounds of appeal, submitting that the proposed development underwent a comprehensive evaluation by Dún Laoghaire-Rathdown County Council. In terms of the rear extension, the applicant submits that the proposal maintains a separation distance of approximately 3.3 meters from the site boundary and 14.6 meters from the neighbouring property's rear elevation. Additionally, the applicant submits that the height of the ground floor extension is similar to the existing boundary wall, ensuring minimal impact on the neighbouring property. The Applicant submits that Shadow Cast Studies were submitted as requested by the local authority, which indicated no significant additional overshadowing on neighbouring properties. The applicant notes how the Shadow Cast Study emphasised that any existing overshadowing is primarily caused by high boundary walls between properties.
- 6.2.7. The Planning Authority's initial report highlighted the significant shadow effect of the previous proposal (P.A. Ref. D21A/0154) on adjacent properties to the west and east sides during specific times in mid-June. The report notes that the subject proposal, being smaller in size, shows reduced shadow impacts compared to the previous

proposal. However, marginal increases in shadows were still observed in comparison to the existing buildings and high stone wall boundaries. Comparisons were made between the subject proposal and the previous application submitted under P.A. Ref. D21A/0154. The Planning Authority noted that no shadow study analysis for the months of March and September was submitted for the current proposal. To ensure a comprehensive evaluation, the Planning Authority recommended requesting further information (FI) that includes shadow analysis for both the existing and proposed developments during March and September, providing a more complete assessment of the shadow impacts throughout the year.

- 6.2.8. In response to further information (FI) request Item No. 2, the Applicant's agent provided an FI response letter and additional shadow cast drawings. The response letter acknowledged the need for an expanded shadow study and included new drawings for both the existing and proposed buildings/structures, specifically for the months of September and March. The additional shadow drawings covered the time periods from 08:00 to 19:00 in September and from 08:00 to 18:00 in March. According to the response, the proposed development, being located north of Tivoli Road, would have minimal to no impact on the properties in that area. Regarding the adjoining structures at Clifton Court and no.7 Tivoli Terrace South, the impact of the proposed extension was reported to be limited to the first and last hours of daylight only.
- 6.2.9. Based on the provided response to FI Item 2, the Planning Authority considered it satisfactory. The report noted that the additional shadow drawings demonstrate minimal, if any, significant increase in shadowing beyond the site boundaries during the September and March periods, specifically in relation to the proposed structures. The Planning Authority concluded that the impact of the proposed structures on shadowing is negligible based on the presented drawings.
- 6.2.10. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing, and height of proposed developments should be carefully modulated in order to maximise access to natural daylight, ventilation, and views, and minimise overshadowing and loss of light. The guidelines state that "appropriate and reasonable regard" should be taken of quantitative performance approaches to daylight provision outlined in guides such as the BRE "Site Layout Planning for Daylight and Sunlight" (2nd edition) and BS 8206-2: 2008, "Lighting for Buildings – Part 2: Code of Practice for Daylighting." If a proposal is unable to fully meet all the

requirements of the daylight provisions, this must be clearly identified, and a rationale for any alternative, compensatory design solutions must be provided. The Planning Authority or An Bord Pleanála should then apply their discretion in regard to these solutions, taking into account local factors such as specific site constraints and the balancing of this assessment against the desirability of achieving wider planning objectives, which may include comprehensive urban regeneration and effective urban design and streetscape solutions.

- 6.2.11. Section 12.3.4.2 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 states that 'Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance, in this regard. Criteria in Table 5.1 of Appendix 5 of the Development Plan (Building Height Strategy) requires that any proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition).
- 6.2.12. I have considered the Shadow Study that was submitted with the application, as well as the further information response submission. I have also had regard to BS 8206-2:2008 and BRE 209 "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice" (2011). While I acknowledge the publication of the updated British Standard (BS EN 17037:2018 "Daylight in Buildings") and the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BR 209 2022 edition), I consider that it does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Height Guidelines. I have conducted a site inspection and have taken into account the interface between the proposed development and its surroundings, as well as the third-party appeals and observations that have raised concerns regarding daylight and sunlight.
- 6.2.13. The Building Research Establishment (BRE) guidelines recognise the importance of preserving daylight in surrounding buildings when designing new developments. According to the BRE guidelines, rooms in adjacent dwellings that require daylight, such as living rooms, kitchens, and bedrooms, should be considered when assessing the impact of the new development. The BRE guidelines provide a series of tests to assist in this evaluation, which are as follows:

(i) Is the separation distance between the new building and the main window of the adjacent dwelling greater than three times the height of the new building above the centre of the main window? If not, proceed to test 2.

(ii) Does the new development subtend an angle greater than 25° to the horizontal as measured from the centre of the lowest window to a main living room window? If yes, proceed to test 3.

(iii) Is the Vertical Sky Component (VSC) less than 27% for any main window? If yes, proceed to test 4.

(iv) Is the VSC less than 0.8 times its original value? If yes, proceed to test 5.

(v) In the room, is the area of the working plane that can see the sky less than 0.8 times its original value? If yes, daylighting is likely to be significantly affected.

6.2.14. Section 2.2.7 of the BRE 209 "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice" (2011) recommends that if the VSC is greater than 27%, then sufficient skylight should reach the windows of the existing building. Any reduction below this level should be minimized. If the VSC with the new development in place is both less than 27% and less than 0.8 times its original value, the occupants of the existing building will likely notice a reduction in the amount of skylight, resulting in a gloomier appearance and increased reliance on electric lighting.

6.2.15. Additionally, Section 3.1.10 of the BRE 209 recommends that interiors that are expected to receive sunlight should receive at least 25% of annual probable sunlight hours (APSH), including at least 5% of winter probable sunlight hours (WPSH) between September 21 and March 21.

6.2.16. It should be noted that the tests and recommendations provided in the BRE guidelines are intended to serve as a general guide and that judgement and the balance of considerations may be required in some cases. Figure 20 of the BRE guidelines outlines these tests. The guidelines aim to maximise sunlight and daylight for future residents and mitigate the worst potential impacts for existing residents.

6.2.17. The adjoining property to the west, Clifton Court, is a three-storey apartment building, which extends up to the boundary of the site. As detailed above, the proposed ground floor extension would maintain a separation distance of c. 2.1m from the western boundary, 2m-3.29m from the southern boundary and 1.3m from the eastern

boundary. Existing boundary walls, 2m-3m high, to the sides and rear are to remain. The proposed first-floor extension would maintain a separation distance of c. 3.7m from the western boundary, c. 5.5m - 10.5 m from the southern boundary (due to the stepped rear footprint) and 9.4m from the eastern boundary. Separation distances from the rear elevations of properties to the south along Tivoil range from 19.4m to 23.4m. The proposed second-floor extension would maintain a separation distance of c. 5.7m from the western boundary, c. 5.5m - 15.5 m from the southern boundary due to the stepped rear footprint, and 9.4m from the eastern boundary. Separation distances from the rear elevations of properties to the south along Tivoil range from 22.1m to 28.5m, at second floor level. The overall building height at second-floor level is 9.4m along its west elevation and 9.6m along its east elevation.

- 6.2.18. Regarding daylight and sunlight, the Shadow Study submitted does not assess the rear south-facing windows of Clifton Court regarding the Vertical Sky Component (VSC) and Annual Probable Sunlight Hours (APSH). The Shadow Study submitted with the application provides an illustrative summary of the extent of the overshadowing effects of the proposed development on adjacent properties at specific times on December 21st and June 21st (09:00 AM, 10:00 AM, 12:00 PM, 14:00 PM, 15:00 PM, and 16:00 PM). The Shadow Study submitted by way of further information provides an illustrative summary of the extent of the overshadowing effects of the proposed development on adjacent properties at specific times on March 15th and September 15th (08:00 AM, 10:00 AM, 12:00 PM, 14:00 PM, 16:00 PM, and 19:00 PM). The assessment reveals that the shadow impact on the rear-facing façade of the adjoining residential apartment building to the west, Clifton Court, would remain unchanged.
- 6.2.19. Having regard to the orientation, layout and height of the proposed development, its setbacks from the side and rear boundaries, the south-facing orientation of neighbouring property to the east and west, I am satisfied that the rear elevations of neighbouring property to the east and west would receive in excess of 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours (APSH) in the winter months between the 21st September and 21st March, in accordance with the recommendations of Section 3.2 of the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.E. 2011). Furthermore, I am satisfied that the private amenity space to the rear of these properties would largely

receive at least two hours of sunlight on the 21st March, in accordance with the recommendations of Section 3.3.7 of the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.E. 2011). I recommend, therefore, that the proposed development is not refused permission on these grounds of appeal.

6.3. Scale, Design and Visual Impact

- 6.3.1. Several appellants have raised concerns regarding the scale, design, and visual impact of the proposed development.
- 6.3.2. Cait Delaney expresses that the proposed development would significantly diminish the residential and visual amenities of the properties within the two eastern blocks of Clifton Court. The first-floor extension adjacent to the boundary with Clifton Court would extend approximately 10m in length and rise around 5m above the garden level. This substantial height difference would greatly detract from the overall amenity experienced by the residents of Clifton Court. Furthermore, the appellant contends that the proposed development lacks successful integration with the existing pattern of development in terms of layout, scale, and massing. It appears excessively dominant within the streetscape, particularly when compared to the scale and character of the surrounding established developments. It is submitted that the placement and scale of the new connecting element between buildings No. 5 and 6 also compete with the historic form and massing of the area, further detracting from neighbouring properties.
- 6.3.3. Clare Duignan raises concerns that the proposed development is deemed inappropriate for the area, constituting an excessive over-development that would dominate the surrounding housing and apartments.
- 6.3.4. Anne Milner submits that the proposed development is imposing in nature and represents an unacceptable level of intensification and overdevelopment for the appeal site. The appellant specifically raises concerns about the rear extension, which extends to 3.25 meters from the boundary and is considered overdevelopment in terms of site coverage. It is further submitted that the overall increase in the number of rooms represents an unacceptable intensification of development on the site. The appellant asserts that the proposed development would have a detrimental impact on the character of the area, characterised by mature buildings in mature gardens.

Granting permission for the proposed development would set an undesirable precedent, and the appellant contends that the demolition of the mews building would be contrary to Policy AR5 of the Development Plan, which aims to preserve older buildings contributing to the character of the streetscape.

6.3.5. Graham and Fiona Mongey object to the proposed development on the grounds that the size and scale of the proposed development are unsuitable for the area, considering the facilities being proposed. The appellants highlight that the proposed development represents a 187% increase in bedrooms, from 16 to 46. They view this as a significant intensification of use, likely driven by demands from HIQA (Health Information and Quality Authority) to meet their standards and critical mass for nursing homes. The appellants submit that such a substantial increase in scale and capacity is not suitable for locations in built-up or old residential areas, unless there is a substantial site available to accommodate the required facilities and support areas demanded by HIQA. They detail how the overall site area of 1500 sq.m. is insufficient to accommodate the scale of the proposed development and associated site works. The appellants contend that the proposed development, given the significant increase in the number of bedrooms, cumulative scale, layout, and proximity to adjoining site boundaries, would result in overdevelopment of the site. They further submit that the design, particularly the large-scale glazed windows facing the rear gardens of Tivoli Road, is seen as intimidating, and the three-storey proposal is considered overbearing relative to the existing houses on Tivoli Road. The appellants assert that the proposed development would unduly impact the residential and visual amenities of neighbouring dwellings, and allowing such a development would set an undesirable precedent for similar projects in the area, contrary to the principles of proper planning and sustainable development. It would also harm amenities and potentially devalue properties.

6.3.6. Ivan & Mary Sutton submit that the site, measuring 0.5 hectares, is too small to accommodate a development of 30 new bedrooms.

6.3.7. The Planning Authority, in its first report, noted the following aspects of the proposed development:

- The top floors of the proposed rear extensions are significantly reduced in length compared to the previous proposal submitted under P.A. Ref. D21A/0154.

- The general arrangement of the proposed rear extensions, demolition of existing structures, and construction of a new linking building remain similar to the previous proposal.
- The proposed new floor area is reduced compared to the previous proposal, with 1,499 sq.m in the current proposal compared to 1,790 sq.m in the previous application.
- The number of bedspaces is reduced in the current proposal, with 49 bedspaces proposed, compared to 55 bedspaces in the previous proposal.
- The main difference between the current and previous proposals lies in the reduction of the proposed built form and increased separation distances from the side and rear boundaries.
- The previous application (P.A. Ref. D21A/0154) was refused due to concerns about the significant increase in bedrooms, cumulative height, length, scale, and layout, which would lead to overdevelopment, shadowing impacts, and adverse effects on residential and visual amenity.
- The current proposal addresses the reasons for refusal in terms of size, bulk, height, and layout.
- The Planning Authority notes that the proposal involves the demolition of the existing mews located to the east of No. 6 Tivoli Terrace South and west of Aclare Nursing Home, as previously noted under D21A/0154 and D19A/0506 (ABP file no. ABP-306039-19).
- The Planning Authority note that the replacement of the mews with a three-storey structure, intended to serve as the new primary entrance to the expanded nursing home, would have a contemporary flat-parapet roof and copper/similar-clad (dark-red colour hue) cladding, contrasting with the neighbouring buildings in terms of design and parapet-roof height.
- The proposed removal of the three-storey rear return of No. 6, features a large round-headed upper-floor window facing the rear and a flight of external steps. The Planning Authority recommended that further information be provided to address the rationale or evaluation of its contribution to the overall structure.

- Regarding the proposed rear extensions, the Planning Authority observed that they span almost the entire width of the three properties, including the side 'mews' of No. 6.
- The Planning Authority noted that the single-storey flat-parapet roof extensions at the rear have heights similar to the existing rear boundary walls.
- The Planning Authority noted that the separation distances to the rear boundary walls range from approximately 1.2m (at a pinch-point) to 3.29m. They also stated that the separation distances from the proposed extensions to the west and east boundaries are generally acceptable, considering the close to three-storey height of the rear extensions.
- The Planning Authority highlight that the upper floors of the central and east side rear extension wings have separation distances of around 23-27m from the main rear elevations of the Tivoli Road houses to the south.
- Overall, the Planning Authority concluded that the combined width, height, length, and scale of the proposed nursing home extensions, along with their separation distances from surrounding properties to the south, east, and west, are visually acceptable and unlikely to have serious negative visual or overbearing impacts on the neighbouring properties and amenity spaces.
- The Planning Authority also considered that the windows facing the Clifton apartment's open space, as depicted on the floor plans, are generally acceptable in terms of their use and separation distances from the side boundary. The Planning Authority took into consideration that the adjacent apartment scheme has a mostly communal open space and a blank east-facing elevation, which further contributes to the acceptability of the windows.

6.3.8. Based on the considerations above, I consider it necessary to assess the scale and design of the proposed development having regard to its scale, massing, height, layout and integration with the existing pattern of development.

6.3.9. Regarding scale and massing, the stated total site area is 1503 sq.m., the floor area of the proposed demolition is 174 sq.m., the floor area of the existing building is 735 sq.m, and the floor area of the proposed new build is 763 sq.m. The stated total gross floor area of the proposed development is 1,499 sq.m, yielding a plot ratio of 0.998

and a site coverage of 0.47%. There are no specific standards in the development Plan regarding plot ratio and site coverage for extensions to nursing homes. Given that the site coverage of the proposed development is 0.47%, it is my view that the proposed development demonstrates a balanced approach to development, ensuring that the extension does not overly dominate the site and allows for the retention of open space, landscaping and car parking. Furthermore, the plot ratio of 0.998 indicates that the proposed development is not excessively dense or overbearing in relation to the size of the site.

6.3.10. In terms of height, the proposed rear extension features a flat roof with a ridge height ranging from 9.4m to 9.6m. Additionally, the central atrium connecting buildings No. 5 and No. 6 incorporates a flat roof with a ridge height of 8.2m above ground level, measured from the front of No. 5 as viewed from the street. The existing buildings, No. 5 and No. 6, both have pitched roofs with ridge heights of c.10m and 10.5m, respectively.

6.3.11. Considering the proposed rear extension's location, which would not be visible from the front, it is my view that the introduction of a 1-3 storey extension to the rear would not have a detrimental impact on the character and visual amenity of the streetscape along Tivoli Terrace South. The lower/setdown roof profile and ridge height of the proposed central atrium, connecting buildings No. 5 and No. 6, maintains and respects the existing roof profiles and ridge heights of the neighbouring buildings. Consequently, I consider the proposed development would not detract from the character and visual amenity of the surrounding streetscape. I recommend, therefore, that the proposed development is not refused permission on these grounds of appeal.

6.4. Open Space

6.4.1. Several appellants have raised concerns regarding the provision of open space in the proposed development.

6.4.2. Cait Delaney submits that the open space drawing indicates a rear external area that falls significantly below the requirements outlined in the County Development Plan. The lack of adequate open space provision is contrary to the plan's requirements and indicative of overdevelopment. The appellant submits that the inadequate provision of open space would have a negative impact on the future residents' amenity.

- 6.4.3. Clare Duignan raises concerns that the provision of open space does not meet the Council's guidelines, falling significantly below the minimum requirement of 15 sq.m per resident. The appellant highlights how the proposed open space consists of narrow yards with high walls and a small front "garden" area that will be perpetually shaded, failing to meet the quality and quantity criteria. The appellant also dismisses the reference to a large open space across the road, stating that it is privately owned and inaccessible to the nursing home residents.
- 6.4.4. Anne Milner submits that the proposed open space is unsatisfactory and lacking in quality and usability. Criticism is raised regarding the severe deficiency in the required quantum of open space due to excessive built form. The proposed open space is seen as lacking quality and usability, with limited natural light in several rooms.
- 6.4.5. Graham and Fiona Mongey contend that the Development Plan requires 15 sq.m of open space per resident, and the proposed development falls short of this requirement, providing only c. 57% of the required open space.
- 6.4.6. The Applicant contests the grounds of appeal, submitting that the proposed development includes c. 422 sq.m. of external communal spaces, with c. 240 sq.m. located in the front and 182 sq.m. at the rear. This calculation specifically refers to external spaces and does not include internal communal areas. The Applicant provides a map illustrating the communal areas of the proposed development. The Applicant emphasises that the design team has given careful consideration to the layout and design of these communal open spaces, aiming to provide high-quality amenity space for the nursing home residents while also respecting the residential amenity of neighbouring properties.
- 6.4.7. The Planning Authority, in its first report, noted that the current proposal includes a rear central courtyard that will be directly accessible to the new extensions and the residents. The Planning Authority considered the location of the courtyard to be generally acceptable, taking into account its relatively narrow width (c. 6.5m) and length (c. 16m), as well as the layout and height of the surrounding structures and the number of proposed bedrooms and bed spaces. However, they highlighted that the courtyard's relatively small size should be taken into consideration.
- 6.4.8. The Planning Authority considered that the landscaped area to the front of the site would have limited amenity value due to its proximity to the front of the premises and

the proposed emergency/loading entrance. The Planning Authority observed that the various elements within the landscaped area are mostly separated by different internal boundary treatments and features, such as stairs and walls.

- 6.4.9. Considering the layout and height of the proposed rear extensions, as well as the established nature of the site in a well-served urban/suburban location, the Planning Authority deemed a shortfall in the quantum of open space to be potentially acceptable in this instance. However, the Planning Authority raised concerns about the applicant's documentation regarding the provision of open space. They found it unclear which areas of the site the stated external open space measurement of c. 750 sq.m applies to. They recommended requesting further information to clarify and provide a clear breakdown of the allocated open space.
- 6.4.10. The Planning Authority's second report, in response to the further information submitted, considered the response to be generally acceptable. They acknowledged that the applicant's calculations indicated that 422 sq.m would constitute external communal spaces, with c. 240 sq.m in the front area and c. 182 sq.m in the rear external area. However, for clarification, the Planning Authority emphasised that Area 'B,' measuring 163 sq.m, identified as internal communal space, mainly comprising an open plan dining/lounge area (approximately 82 sq.m) and a connecting front reception/seating area (approximately 40 sq.m), should not be included in the open space calculations based on their interpretation.
- 6.4.11. The Planning Authority acknowledged that the increased area of the front garden space holds more amenity value and considered the size, dimensions, and distribution of the external spaces to be acceptable, taking into account the longstanding nature of the premises and the built-up location. The Planning Authority concluded that a slight shortfall in the standard open space requirement could be deemed acceptable, given the circumstances of this particular case.
- 6.4.12. Section 12.8.4 of the Development Plan refers to 'Open Space Quantity for Mixed Use, Non-Residential and Commercial' and states the following:

Adequate and suitable open space should be provided for Nursing Homes/Housing for the Elderly/Assisted Living Accommodation. Planning applications for such developments should:

- *Include detailed open space and landscaping plans that take account of the location of the facility and orientation.*
- *Provide at least 15 sq.m. open space per resident (unless otherwise agreed with the Planning Authority).*
- *Have regard to the availability/suitability of already existing open space.*
- *Respect and accommodate the specific needs of the residents of the facility.*
- *Be accessible for all users and provide links to adjoining public footpaths.*
- *Incorporate age friendly principles in the design*

6.4.13. The proposed development provides an additional 30 rooms, resulting in a total of 49 no. bed spaces within the nursing home. Based on the criteria under Section 12.8.4, a minimum of 735 sq.m. open space is required for the proposed development.

6.4.14. The applicant's submission in response to the grounds of appeal outlines the following areas of external open space would be provided:

- Area A: A front landscaped garden spanning 240.95 sq.m., which would feature an enclosed seating area and a larger open area with seating.
- Area C: A rear landscaped area covering 182.54 sq.m., comprising a small courtyard, seating areas, footpaths, and an astro surface.

6.4.15. Combined, the quantum of open space provided for the proposed development is 423.49 sq.m. This falls significantly below the minimum 735 sq.m. open space requirement. Notwithstanding this, regard should be had to the criteria under Section 12.8.4 of the Development Plan. With regard to this criteria, the following is noted in relation to the proposed development:

- The proposed development offers several enclosed outdoor spaces, ensuring a safe and secure environment for residents to enjoy.
- The outdoor areas are accessible to residents with disabilities and include ample seating, allowing for rest stops and facilitating social interaction.

- Landscaping of the outdoor spaces would be conducted to a high standard, promoting wildlife and biodiversity, and providing positive sensory stimulation for residents.
- The site is located in close proximity to areas of recreational amenity, such as the East Pier in Dún Laoghaire, which is approximately 1.3km to the north-east.
- Dún Laoghaire Bowling Club is located c. 350m / 5 min walk to the south.
- Cualanor Park is located c. 850m / 10 min walk to the south of the site.
- Royal Terrace Square is located c. 600m to the south-east / 7 min walk from the site

6.4.16. It is worth noting that the Health Information and Quality Authority (HIQA) National Standards for Residential Care Settings for Older People in Ireland (2016) do not specify minimum external space requirements.

6.4.17. Taking all these factors into consideration, it is my view that the quantum of open space provided for the proposed development is acceptable in this instance, having regard to the criteria under Section 12.8.4 of the Development Plan. The accessible, enclosed outdoor spaces, the provision of ample seating for rest and social interaction, the provision of high-quality landscaping that promotes biodiversity and sensory stimulation for residents, and the advantageous proximity to recreational amenities in the locality collectively render the open space provision acceptable in this instance. Consequently, I recommend that the proposed development is not refused permission on these grounds of appeal.

6.5. Car Parking Provision

6.5.1. Several appellants have raised concerns regarding the proposed parking provision in the development.

6.5.2. Cait Delaney submits that the provision of only six parking spaces, including two disabled spaces, is significantly deficient and indicative of overdevelopment on the site. The appellant highlights a clear conflict between the required car parking and the inadequate number of on-site spaces, as well as the lack of available on-street parking. The significant lack of car parking would lead to serious traffic conflicts and overflow parking in neighbouring residential areas.

- 6.5.3. Clare Duignan raises concerns about the unrealistic parking facilities proposed, with only six parking spaces, including two designated as disabled-friendly. The appellant contends that this provision is inadequate considering the expected age profile of residents and visitors. The lack of available on-street parking further exacerbates this issue.
- 6.5.4. Anne Milner raises concerns about the proposed inadequate car parking provision, with only six parking spaces for a nursing home, which is deemed wholly unsatisfactory. The appellant asserts that this provision fails to meet the needs of residents, visitors, and staff, especially during shift handover times when public transport may not be available. The overspill parking generated by the proposed development is also highlighted as a concern, as it would cause parking stress on surrounding streets given the anticipated number of residents and staff.
- 6.5.5. Graham and Fiona Mongey express concerns about the provision of only six parking spaces for staff and visitors, despite accommodating 49 residents. The appellants submit that a larger number of car parking spaces is necessary to cater to the needs of staff and visitors.
- 6.5.6. The appellant contests these grounds of appeal, as detailed in Section 5.2 above. In summary, the appellant submits that the concerns raised regarding parking provision on-site are unwarranted. The appellant notes that the Dun Laoghaire Rathdown Development Plan outlines parking standards of 1 space per 4 residents, which would result in a maximum of 14 car parking spaces for the proposed development. However, there are currently 6 surface-level car parking spaces available on-site, including 2 disability accessible spaces. The appellant submits that the majority of staff members reside in the surrounding area and prefer alternative modes of transportation such as walking, cycling, or using public transport. Therefore, the on-site parking spaces are primarily intended for visitors to the nursing home rather than for staff use. The appellant notes that the Council's Transportation Planning Department has thoroughly assessed the proposal and considers the proposed 6 no. car parking spaces to be acceptable. The appellant also notes the presence of existing on-street parking bays on Tivoli Terrace South has been taken into consideration, providing additional parking options for both visitors and staff.

- 6.5.7. The Planning Authority, in its first report, noted that the Transportation Planning report raised no objection to the proposal subject to 11 conditions related to access, parking, and transportation. These conditions covered requirements and details for car parking, access arrangements, and works during the construction and operational phases.
- 6.5.8. The Planning Authority report noted how the proposal provides 6 car parking spaces, 2 of which were designated for disabled parking. The Planning Authority report refers to the Transportation Planning report, which noted that the car parking standards for the nursing home, as set out in the Dun Laoghaire-Rathdown County Development Plan, considered the provision of 6 spaces to meet the acceptable standards. The report also acknowledged the existing on-street 'Pay and Display' parking bays on Tivoli Terrace South and considered the proposed parking provision sufficient for the nursing home.
- 6.5.9. In response to the clarification of further information submitted, the Transportation Planning report noted that the proposed development includes 6 no. car parking spaces, 2 of which are designated as disabled car parking spaces. The report notes how car parking standards provision for the proposed extended nursing home is set out under the Land Use Community: Residential Institution: Zone 2 Near Public Transport in Table 12.5 Car Parking Zones and Standards of the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028. The report notes that while the car parking standards provision for the proposed extended nursing home is 24 car parking spaces (1 space per 2 beds), it is further noted that within Parking Zone 2, the maximum standards apply for all uses except for residential, where the standard is required. Therefore, the proposed 6 no. car parking spaces were considered acceptable for the proposed extended nursing home. The Transportation Planning report considered that one of the proposed 6 car parking spaces should be an Electric Vehicle Charging Space in accordance with Section 12.4.11 of the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028, regarding electrically operated vehicles. The report recommended Condition No. 5 which requires that the applicant provide one of the proposed 4 general car parking spaces as an Electric Vehicle Charging Space in accordance with the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028, Section 12.4.11 Electrically Operated Vehicles.
- 6.5.10. Based on the considerations above, an assessment of car parking provision is required.

- 6.5.11. Development Plan Map T2 Parking Zones, shows that the appeal site is located in Zone 2. Section 12.4.5, Table 12.5 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 sets out car parking zones and standards, which require a maximum of 1 no. parking space per 2 beds in a residential institution in Zone 2 near public transport. Section 13.2 defines a Residential Institution as including a nursing home.
- 6.5.12. The proposed development provides 6 no. surface level car parking spaces to the front of No. 4 and 5, of which two of these spaces will be designated disabled access. A dedicated emergency/loading area, bin storage area and Sheffield Bike stand is also located the front of the building.
- 6.5.13. The proposed development provides an additional 30 rooms, providing an overall total of 49 no. bed spaces within the nursing home. Based on the car parking standard requirements in Table 12.5, the maximum number of parking spaces required for the proposed development would be 24 no. parking spaces.
- 6.5.14. It is noted that Section 12.4.5.1 of the Development Plan refers to Parking Zones and states that 'Within parking zone 2 maximum standards shall apply for all uses except for residential where the standard is required. For residential uses, reduced provision may be acceptable dependent on criteria set out in Section 12.4.5.2 below'. It should be further noted that the use classes 'Residential' and 'Residential Institution' are defined as distinct classes of use, and therefore, the standard is not required, as required under 12.4.5.1.
- 6.5.15. Section 12.4.5.2 of the Development Plan refers to the Application of Standards and states that 'In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces specified in Table 12.5 or may consider that no parking spaces are required', and that 'In all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out below'. Subsection (i) sets out assessment criteria for deviation from car parking standards (set out in Table 12.5). With regard to this criteria, the following is noted in relation to the proposed development:

- Tivoli Terrace South, the road serving the development, is a one-way road with alternating sections of pay and display parking. The road primarily serves residential dwellings. Low levels of traffic were observed along the road on the date of site inspection.
- There is a Dublin bus stop near the western end of Tivoli Terrace South, along York Road, serving Dublin Bus route nos. 46A, 63, 63A, 75 and 75A.
- The Dún Laoghaire Dart and train station is located c. 1.1km to the north-east, within a 16-minute walk or 8-minute cycle.
- The site is located c. 800m from Dún Laoghaire urban core along Georges Street Upper.
- Bicycle and eBikes rental stations are located at Dún Laoghaire train station.
- As detailed by the Applicant, the majority of staff members reside in the immediate vicinity and have the option to commute on foot, bicycle, or public transport.

6.5.16. Taking all these factors into consideration and taking into account the Council's Transportation Planning report, which raised no objection to the proposed development, it is my view that the number of car parking spaces proposed is acceptable in this instance, having regard to the Assessment Criteria for deviation from Car Parking Standards, as set out under Section 12.4.5.2(i) of the Development Plan. It is important to note that the parking standard set out in Table 12.5 represents a maximum standard. In this case, the availability of adequate time-restricted pay and display on-street parking along Tivoli Terrace South and nearby streets, coupled with the close proximity of high-frequency and high-capacity public transport options, supports the viability of a reduced number of car parking spaces. The availability of bicycle and eBike rental stations at the Dún Laoghaire train station further promotes alternative modes of transportation. The applicant has confirmed that the majority of staff members reside in the immediate vicinity, affording them the option to commute on foot, bicycle, or public transport. This indicates a reduced reliance on private vehicles for staff transportation. Such a reduction would contribute to mitigating increased traffic flows and congestion along Tivoli Terrace South, reducing the likelihood of traffic collisions, fostering positive environmental effects, and encouraging the use of sustainable modes of transportation. The 2 no. disabled car parking spaces provided accord with the requirements of Section 12.4.5.3, which requires that 4% of

car parking provision shall be suitable for use by disabled persons. On this basis, I recommend that the proposed development not be refused permission in relation to these grounds of appeal.

6.6. Potential impact on structural integrity

- 6.6.1. Concerns have been raised regarding the potential impact on the structural integrity of neighbouring properties due to the proposed development.
- 6.6.2. Cait Delaney raises concerns about the adverse effects of the proposed development on neighbouring properties' structural integrity. Specifically, the construction of a basement within 1m of the shared boundary and the lowering of the ground level adjacent to the boundary wall are highlighted. The appellant notes that the applicant has not provided any structural analysis of the existing boundary wall or considered neighbouring ownership entitlements.
- 6.6.3. Clare Duignan raises concerns about the inclusion of a large basement near the western boundary in the proposal. The appellant expresses the need for reassurance regarding the potential destabilisation of the boundary wall and surrounding lands resulting from the excavation. The appellant notes that the area is known to be underlain by hard granite, and the removal of such material would generate high levels of noise and vibrations. However, no substrate investigation has been conducted to assess these potential risks.
- 6.6.4. Ivan & Mary Sutton submit that no site boring was conducted to assess the presence of rock on the site. The appellants raise concerns about potential damage to their house and the potential triggering of alarms due to vibrations from the construction, especially since their house is a semi-detached property adjoining house No. 6.
- 6.6.5. The Planning Authority, in its first report, noted the Environmental Services Planning report's acknowledgement of the Preliminary Site Waste Management Plan and the Site Access and Construction Management Plan submitted by the Applicant. However, it highlighted that these documents lacked relevant details, particularly regarding Construction Waste Management and Environmental Management during the construction and operational phases. The report expressed general dissatisfaction with the submitted documents and recommended the submission of comprehensive plans, including a Construction Waste Management Plan, a detailed Environmental

Management Construction Plan, and an Operational Waste Management Plan. Further information was requested to address these deficiencies and obtain the required plans and documents.

- 6.6.6. The Environmental Health Officer (EHO) Planning report recommended requesting further information regarding demolition, construction, and operational phase items, similar to the Environmental Section (Waste) Planning Report. It specifically emphasised the need for a detailed Demolition Management Plan and a Construction Environmental Management Plan, with various details to be included in the latter plan, such as considerations for the operational phase. The report also highlighted the importance of addressing potential noise nuisance from prolonged rock-breaking activities during excavation works in the Demolition Management Plan.
- 6.6.7. In response, the applicant submitted an outline Construction Management Plan. The EHO's further information report noted the absence of a baseline noise assessment report to manage noise and vibration impact during the construction phase, particularly prior to basement-level excavation and potential piling for the proposed 3-storey extension. It emphasised the proximity of the site to residential properties and stressed the need to predict the impacts of demolition and construction phases and propose mitigation measures.
- 6.6.8. Clarification of further information was requested, specifying that the applicant needed to submit a revised, more detailed Demolition Management Plan and a Construction Environmental Management Plan that addressed the raised concerns. The Planning Authority noted the recommendations of the EHO and Environment Section reports and referred to the provisions in the 2022-2028 Dun Laoghaire Rathdown County Development Plan regarding construction working hours. It recommended attaching conditions related to noise, vibration, dust monitoring, noise management, waste management, public liaison, and complaint resolution.
- 6.6.9. Overall, the Planning Authority acknowledged the reports received and determined that most issues had been satisfactorily addressed, subject to the conditions outlined in the Environment Section report. It recommended restricting site development and building works to the specified hours in the County Development Plan, with any deviations requiring prior approval. The Authority agreed with the recommended conditions for re. (interalia) vibration. Additionally, it endorsed the inclusion of a

condition to address complaints from third parties during the construction process if planning permission is granted.

- 6.6.10. Condition No. 5 imposed by the Planning Authority requires that prior to the commencement of development, noise, vibration and dust monitoring stations be installed and maintained to provide continuous monitoring to measure and record the impact of site activities on local receptors and that all monitoring data be compiled into weekly technical monitoring reports which shall identify remedial measures where levels exceed relevant limit values.
- 6.6.11. Based on the considerations above, an assessment of the potential impact of the proposed development on the structural integrity of neighbouring properties is required.
- 6.6.12. The proposed development involves several elements, including the demolition of the existing conservatory and rear extensions at No. 4 and No. 5, the demolition of the adjacent mews building at No. 6 Tivoli Terrace South, and the construction of a new 3-storey extension. This new extension would serve as the primary entrance to an expanded and renovated nursing home. Furthermore, the proposed development includes a change of use for No. 6 from residential to nursing home use, as well as alterations and extensions to the rear of No. 4, No. 5, and No. 6. These alterations and extensions vary in height, comprising parts that are 3 storeys, 2 storeys, and single storey. Additionally, the proposed development includes a basement area measuring c. 97 sq.m.
- 6.6.13. The Noise & Vibration Impact Assessment Report, prepared by Redkite Environmental, details the following;
- A desk-based study indicates that granite bedrock may be encountered during basement construction therefore rock breaking may be required. The extent of this element of works is estimated at 4 weeks and will occur after the demolition phase.
 - Piling is not proposed for this development. Standard strip foundations are preferred.

- Demolition of the mews, followed by the conservatory and existing extensions will likely proceed first, followed by soil excavation and, where required, rock-breaking for the basement.
- Pneumatic or hydraulic breakers will likely be required at times to remove foundations and hardstand.
- Rock-breaking may occur over a further 4-week period or 20 working days.
- The likelihood of vibrations of high intensity is low as piling and vibratory compaction will not be carried out on site. Breakers can potentially give rise to transient vibration therefore, precautionary measures such as vibration monitoring at the nearest receptors is proposed during elements of the works when breakers and excavators or any other heavy pieces of equipment are in use.
- A Site Representative shall be appointed for matters related to noise and vibration. Any complaints received shall be thoroughly investigated.
- A written complaints log shall be maintained by the Site Representative. This shall, at a minimum, record complainant's details (where agreed) the date and time of the complaint, details of the complaint including where the effect was observed, corrective and preventative actions taken and any close-out communications. This will ensure that the concerns of local residents who may be affected by site activities are considered during the management of activities at the site.
- A communication plan shall be developed to ensure that residents are kept informed of works proposed.
- No crushing of rock will occur on site.
- Where feasible, chemical rock breaking such as the use of a cement slurry shall be deployed to further reduce the duration of potential rockbreaking. This method involves initially drilling into the rock face, pouring in slurry which then expands and breaks the rock. The method, where chosen to mitigate noise, shall ensure that water pollution is prevented.
- The existing boundary walls will be maintained and supported where necessary as per engineering recommendations to avoid damage due to the works. The

existing walls will provide screening to receptors at ground floor level. However, they will not screen overlooking apartments to the west. Therefore, the use of temporary acoustic screens will be deployed where necessary when noisy equipment is in use and substitution cannot be carried out. Furthermore, the equipment shall be managed through monitoring and timing of use to ensure that the threshold values/criteria specified are complied with.

- As a precautionary measure and as part of good practice, vibration monitoring shall be carried out at the nearest receptor during demolition and rock-breaking (if it occurs). In this regard, test monitoring will be conducted with the equipment on at low levels before increasing incrementally to operational levels. Works will be ceased and mitigation measures implemented where monitoring detects vibration levels associated with the works above the relevant guidance values set out in Section 6.1.2. e.g. • Light Buildings - 7.5mm/sec • Heavy Buildings - 25mm/sec The outline CEMP submitted with this application shall include the noise and vibration management measures listed above.
- Concrete walls and slab with a density of 2,500 kg/m³ will comprise the built structure, including the basement.

6.6.14. In light of the aforementioned considerations and with regard to the potential impact on the structural integrity of neighbouring properties, it is my view this issue is controlled under separate Building Regulations. However, to address the concerns raised by the appellants and ensure that the proposed development does not compromise the stability and integrity of adjoining lands, properties, and common boundary walls, I recommend the imposition of a specific condition in the event of a grant of permission requiring the developer to submit a comprehensive structural report to the Planning Authority for approval. This report should demonstrate that the proposed development has been designed and engineered in a manner that will not have a detrimental impact on the structural integrity of neighbouring properties and common boundary walls. Such a condition would provide assurance to the appellants regarding the potential structural implications of the proposed development.

6.6.15. Furthermore, I concur with the Planning Authority's decision to impose Condition No. 5(a) as it directly addresses concerns related to vibration and its potential impact on neighbouring properties. The specific terms of Condition No. 5(a) require (inter alia) the

installation and maintenance of vibration stations prior to the commencement of the proposed development. These monitoring stations should provide continuous monitoring to accurately measure and record the impact of site activities on local receptors. Weekly technical monitoring reports should be compiled, detailing the monitoring data and identifying any remedial measures to be taken in instances where the recorded levels exceed the relevant limit values. This comprehensive monitoring and reporting approach will ensure that any excessive vibration levels can be promptly identified and appropriate remedial measures can be implemented.

6.6.16. In conclusion, by imposing the recommended conditions, including the submission of a structural report and the implementation of thorough monitoring measures, the concerns raised regarding the potential impact on neighbouring properties are addressed. These conditions will ensure that the proposed development will be carried out in a manner that protects the stability and safety of the surrounding properties and their occupants.

6.7. Impact of Noise, Vibration and Construction Activities

6.7.1. The potential impact of noise and construction activities associated with the proposed development has raised concerns among the appellants.

6.7.2. Cait Delaney objects to the proposed development, citing several grounds related to noise and vibrations. The appellant highlights flaws in the noise and vibration assessment conducted by the applicant, as it did not follow standard practice of monitoring at the periphery of the site. Concerns are raised regarding the lack of understanding of ground conditions and failure to assess the noise impact of vents and plant from the basement. These inadequacies in the assessment indicate potential negative impacts on the residential amenity of the area during both the construction and operational phases.

6.7.3. Clare Duignan raises concerns about the potential disruptions caused by construction activities, including traffic, noise, vibration, and dust. The appellant emphasizes that these disruptions could significantly impact residents, especially those working from home, on shift work, or experiencing illness.

6.7.4. Anne Milner raises concerns about the considerable impact that the construction phase will have on the area and neighboring properties. Specifically, the presence of

large construction vehicles in a one-way system is highlighted as a potential source of disturbance.

- 6.7.5. Ivan & Mary Sutton raise concerns regarding the absence of any conditions in the planning permission regarding additional insulation to reduce noise from the medical bedrooms, which will be adjoining their bedrooms. The appellants express the need for measures to mitigate potential noise impacts on their residential amenity.
- 6.7.6. The applicant contests these grounds of appeal, as detailed in Section 5.2 above. In summary, the applicant submits that an environmental acoustic engineer was hired to evaluate the potential noise and vibration impacts throughout the construction and operational phases of the project. The applicant asserts that the Noise & Vibration Report prepared by the acoustic engineer included specific criteria and mitigation measures to minimise noise during the short-term construction phases. These measures were incorporated into a revised Construction Environmental Management Plan (CEMP), ensuring proper management of noise impacts. The applicant submits that the proposed development is not expected to be intrusive or result in significant noise effects in the long run. This is contingent upon the listed mitigation measures, particularly regarding the installation of equipment such as the new heat pump.
- 6.7.7. The Planning Authority, in its first report, referred to the Environmental Health Officer (EHO) Planning report, which emphasised the importance of addressing potential noise nuisance from prolonged rock-breaking activities during excavation works in the Demolition Management Plan. Further information was requested under Item No. 7, which required the Applicant to address the matters raised by the EHO, including (a) providing a more detailed Demolition Management Plan (DMP) that details any expected prolonged rock-breaking activities during excavation works and includes measures to mitigate noise nuisance, and (b) submitting a detailed Construction Environmental Management Plan (CEMP).
- 6.7.8. In response to the further information submission, the EHO report noted that no baseline noise assessment report had been submitted to manage noise and vibration impact during the construction phase, particularly prior to basement-level excavation and possible piling to support foundations on the proposed 3-storey extension over the basement containing utility/plant services. The report highlighted the proximity of the site to residential properties on Tivoli Terrace, particularly along the boundary of

Tivoli Road residential properties. It emphasized the need to predict the impacts of the demolition and construction phases on the receiving environment and propose mitigation measures.

- 6.7.9. The EHO report also noted that a baseline environmental noise survey, including predictive modelling on the noise impacts of the operational phase, had not been submitted. It emphasised that such a survey is required for a proposed care facility of this scale in a predominantly residential area. Regarding operational plant noise, the report mentioned that suitable noise thresholds can be assessed based on measured and calculated prevalent noise levels, and plant selection during the design stage can ensure that noise emissions at local sensitive receptors do not exceed the assessed thresholds.
- 6.7.10. In response, the Planning Authority requested clarification of further information. The Planning Authority noted that the plans and particulars provided in the further information response under Item 7(a) did not include a baseline noise assessment report to manage noise and vibration impact during the construction phase prior to basement level excavation and possible piling. The authority requested the applicant to submit a revised, more detailed Demolition Management Plan that addresses these matters. Regarding Item 7(b) of the further information request and response, which relates to a more detailed Construction Environmental Management Plan (CEMP), the Planning Authority noted that the plans and particulars provided did not include a baseline environmental noise survey, including predictive modeling on the noise impacts of the operational phase. The Planning Authority requested the applicant to submit a revised, more detailed Construction Environmental Management Plan (CEMP) that addresses these matters. The applicant was advised to review the full report on file from the EHO and take into consideration the recommendations of the Environment Section (Environmental Enforcement) report.
- 6.7.11. In response to the clarification of additional information, the EHO noted that the Noise Vibration Impact Assessment report assessed the noise and vibration impacts and effects associated with the proposed construction and operational phases against specified criteria and was acceptable to the EHO. The Construction Noise & Vibration Mitigation Measures and/or Factors, as outlined in the Revised Outline Construction, Demolition, and Environmental Management Plan, were also deemed acceptable. The EHO considered the predicted operational noise levels for plant equipment,

particularly selected pumps, to be within the acceptable range. The proposed limit for plant noise, as dictated by nighttime background noise levels, was stated as 35 dB(A) at the facade of the nearest NSR (Noise-Sensitive Receptor), based on the Noise and Vibration Impact Assessment Report.

6.7.12. Relevant Conditions imposed on the grant of permission include Condition No. 5, which regulate noise monitoring and management, and Condition No. 8, which specify the hours of construction.

6.7.13. Based on the considerations above, an assessment of noise impact on neighbouring properties is required. As detailed above, the Noise & Vibration Impact Assessment Report, conducted by Redkite Environmental, provides detailed information regarding the noise and vibration aspects of the project. The report indicates that during basement construction, rock breaking may be necessary due to the presence of granite bedrock, which is estimated to take approximately four weeks after the demolition phase. Piling is not planned for this development, and standard strip foundations will be used. The demolition of the mews, conservatory, and existing extensions will likely occur first, followed by soil excavation and, if required, rock-breaking for the basement. The use of pneumatic or hydraulic breakers may be necessary to remove foundations and hardstanding, with an additional estimated period of four weeks or 20 working days for rock-breaking. The report details that although vibrations of high intensity are unlikely due to the absence of piling and vibratory compaction, precautionary measures such as vibration monitoring at nearby receptors will be implemented when breakers and heavy equipment are in use. A designated Site Representative will be appointed to address noise and vibration matters and investigate any received complaints, maintaining a written complaints log to record and address concerns raised by local residents. A communication plan will be developed to keep residents informed of the proposed works. On-site rock crushing will not take place, and chemical rock-breaking methods like the use of cement slurry will be employed where feasible to reduce rock-breaking duration and prevent water pollution. Existing boundary walls will be maintained and supported as per engineering recommendations to minimize damage and provide screening, although temporary acoustic screens may be used when noisy equipment is in operation and overlooking apartments cannot be screened. Vibration monitoring will be carried out at the nearest receptor during demolition and potential rock-breaking, with test monitoring conducted

incrementally to ensure compliance with relevant guidance values. The construction plan includes the outlined noise and vibration management measures, and the built structure, including the basement, will consist of concrete walls and a slab with a density of 2,500 kg/m³.

- 6.7.14. The Construction, Demolition, and Environmental Management Plan, prepared by PBA architects, provides a comprehensive overview of measures related to noise, vibration, construction, and traffic management. The plan addresses several key aspects to ensure the smooth and efficient execution of the project. Regarding noise and vibration, the plan incorporates findings from the Noise & Vibration Impact Assessment Report conducted by Redkite Environmental. It highlights various considerations and actions to mitigate potential disturbances. For instance, a desk-based study revealed the possibility of encountering granite bedrock during basement construction, which may require rock breaking for approximately four weeks. The use of pneumatic or hydraulic breakers during foundation removal is anticipated. To minimise high-intensity vibrations, precautionary measures such as vibration monitoring at the nearest receptors will be implemented during the use of breakers and excavators. A Site Representative will be appointed to address noise and vibration matters, investigate complaints, and maintain a written complaints log to ensure the concerns of local residents are duly considered.
- 6.7.15. The plan emphasises the importance of maintaining existing boundary walls for screening purposes and to avoid damage during construction. Temporary acoustic screens will be deployed where necessary to mitigate noise generated by equipment when substitution is not feasible. The construction sequence will be carefully phased to minimise noise impact, ensuring that rock-breaking activities do not coincide with demolition works. Chemical rock breaking methods, such as using a cement slurry, will be employed when feasible to reduce the duration of rock breaking and prevent water pollution.
- 6.7.16. The Construction, Demolition, and Environmental Management Plan also addresses vibration management. The plan details how the Contractor will provide and maintain vibration monitoring when required due to the nature of the works, with vibrations monitored in accordance with relevant standards. Works will be ceased and mitigation measures implemented if vibration levels exceed the limit of 5mm/s ppv specified in BS 7385-1:1990. Additionally, the plan outlines the necessary measures for

construction traffic management. Temporary security fencing will be installed to enclose the site area, and the Contractor will be responsible for site security, including operating a Site Induction Process, ensuring staff possess valid "Safe Pass" cards, and maintaining appropriate site fencing. A Construction Traffic Management plan will be submitted for approval, addressing issues such as the haulage route, working hours, signage, and off-road parking arrangements. It is estimated that the construction traffic impact on the surrounding local road network will be minimal, with peak HGV and LGV movements occurring during specific phases of the project.

6.7.17. In consideration of the foregoing and available information on the file, including the Noise & Vibration Impact Assessment Report, the Construction, Demolition, and Environmental Management Plan, and the response from the Environmental Health Officer (EHO), it is my view that the proposed development would not significantly impact the amenity of neighbouring properties in terms of noise, vibration, and construction activities.

6.7.18. The applicant has engaged an environmental acoustic engineer to assess the potential noise and vibration impacts throughout both the construction and operational phases of the proposed development. The Noise & Vibration Report prepared by the acoustic engineer includes specific criteria and mitigation measures to minimise noise during the construction phase. These measures have been incorporated into a revised Construction Environmental Management Plan (CEMP), demonstrating a commitment to proper management of noise impacts.

6.7.19. The EHO report highlighted the need for a baseline noise assessment report to manage noise and vibration impact during the construction phase, and the applicant has provided clarification and additional information to meet these requirements. The Construction Noise & Vibration Mitigation Measures outlined in the revised CEMP have been deemed acceptable by the EHO.

6.7.20. Specific measures have been proposed to address potential disturbances caused by construction activities. The use of rock-breaking activities during basement construction is anticipated, but the absence of piling and vibratory compaction minimises the likelihood of high-intensity vibrations. Vibration monitoring at nearby receptors will be implemented during the use of breakers and heavy equipment. A designated Site Representative will address noise and vibration matters and

investigate any complaints, maintaining a written log to record and address concerns raised by local residents. Communication plans will be developed to keep residents informed of the proposed works.

- 6.7.21. The Construction, Demolition, and Environmental Management Plan provides comprehensive measures to mitigate noise and vibration impacts. It emphasises maintaining existing boundary walls, using temporary acoustic screens when necessary, and carefully phasing the construction sequence to minimise noise impact. Chemical rock breaking methods will be employed to reduce the duration of rock breaking and prevent water pollution. Vibration monitoring will be carried out in accordance with relevant standards, and mitigation measures will be implemented if vibration levels exceed the specified limits.
- 6.7.22. Considering the above assessments and measures, it is evident that the applicant has taken proactive steps to address potential noise, vibration, and construction impacts on neighbouring properties. The inclusion of conditions in the Planning Authority's planning permission, such as noise monitoring and management, further ensures compliance and the protection of residential amenity. The proposed development, with the implementation of the outlined mitigation measures, including the installation of equipment such as the new heat pump, is not expected to be intrusive or result in significant noise effects in the long term.
- 6.7.23. The Construction, Demolition, and Environmental Management Plan also addresses the issue of construction traffic management. The plan outlines measures to minimise the impact of construction traffic on the surrounding local road network. It includes provisions for temporary security fencing to enclose the site area and ensure site security. The Contractor will be responsible for maintaining appropriate site fencing. Additionally, a Construction Traffic Management plan will be submitted for approval by the local authority, which will address issues such as the designated haulage route, working hours, signage, and off-road parking arrangements. It is estimated that the construction traffic impact on the surrounding local road network will be minimal, with peak HGV and LGV movements occurring during specific phases of the project. These measures demonstrate a proactive approach to minimize disruption and potential impacts on neighboring properties due to construction traffic.

6.7.24. In consideration of the above, I conclude that the proposed development would not have a significant impact on the amenity of neighbouring properties with regard to noise, vibration, and construction activities. I recommend, therefore, that the proposed development is not refused permission on these grounds of appeal.

6.8. Potential reduction in property values

6.8.1. Cait Delaney submits that the proposed development, with its negative impacts on residential amenity and adverse effects on the setting of properties, would lead to a substantial reduction in the value of the affected property.

6.8.2. I acknowledge the concerns raised in the grounds of appeal regarding the potential devaluation of neighbouring property due to the proposed development. However, based on a thorough assessment and the conclusions presented above, I am satisfied that the proposed development would not significantly injure the amenities of the area to an extent that would adversely affect the value of properties in the vicinity. No evidence has been submitted to substantiate the alleged potential depreciation of neighbouring property. It is my view that the objection raised in this regard remain speculative and unsupported by concrete factual information. The impact on property values is a complex matter influenced by various factors, and without substantial evidence to demonstrate a direct and significant correlation between the proposed development and the devaluation of neighbouring property, such claims cannot be given substantial weight in the assessment. Moreover, the assessment conducted takes into consideration the potential impacts on residential amenities and the setting of neighbouring properties. The assessment takes into account aspects of the proposed development, including its built form, design and layout, separation distances, and compliance with relevant Development Plan policies and standards.

6.8.3. In light of the above and the absence of substantiated evidence demonstrating significant devaluation, I am satisfied that the proposed development, as assessed, would have no substantial negative impact on property values in the area.

6.9. Appropriate Assessment

6.10. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced settlement, and

having regard to its separation distance from any European site, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.0 Recommendation

7.1. I recommend that permission be granted, subject to conditions, for the reasons and considerations below.

8.0 Reasons and Considerations

8.1.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenity of the area, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 22 nd day of December 2021, clarification of further information submitted on the 31 st day of March 2022 and by the further plans and particulars received by An Bord Pleanála on the 14 th day of February 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to
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	<p>commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
3.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer. Details of proposals to discharge and connect to the existing wastewater network in Kerry Pike, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site.</p> <p>(b) Only clean, uncontaminated stormwater shall be discharged to the surface water drainage system.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Prior to commencement of development the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>The window ope serving Room No. 21 shall be glazed with obscure glass, and Room No. 21 shall not be used as a habitable room.</p> <p>Reason: In the interest of residential amenity.</p>
7.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the</p>

	<p>provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interest of visual and residential amenity.</p>
8.	<p>(i) Prior to the commencement of development, the Applicant shall make arrangements with DLRC - Parking Control Section to address any necessary amendments to 'Pay and Display' parking bays (or part thereof) on Tivoli Terrace South, Dún Laoghaire, resulting from the proposed revised vehicular entrances to Nos. 4, 5 and 6 Tivoli Terrace South, Dun Laoghaire, which are included in the proposed works. These works shall be undertaken at the Applicant's expense and in compliance with the terms and conditions set forth by the Planning Authority (Municipal Services Department). Such terms and conditions include a fee/charge for the loss of any 'Pay and Display' parking bays (or part thereof).</p> <p>(ii) The footpath in front of the revised vehicular entrances to Nos. 4, 5 and 6 Tivoli Terrace South shall be dished and reinforced at the Applicant's expense. This includes any necessary relocation or adjustment of water cocks/chamber covers, all of which shall be completed to the satisfaction of the relevant utility company and the Planning Authority. The remaining portion of the footpath in front of Nos. 4, 5 and 6 Tivoli Terrace South, shall also be reconstructed as required, at the Applicant's own expense, with a full-height road kerb. Any relocation or adjustment of water cocks/chamber covers shall be carried out to the satisfaction of the appropriate utility company and the Planning Authority. For guidance on the construction of the footpath in front of 4/5/6 Tivoli Terrace South, Dun Laoghaire, the Applicant shall contact the Council's Road Maintenance & Control Section to ascertain the necessary specifications for the works and to obtain any required permits.</p> <p>Reason: In the interest of road and pedestrian safety.</p>
9.	<p>All of the communal parking areas serving the nursing home shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	Reason: In the interest of sustainable transportation.
10.	<p>Prior to the commencement of development, the Applicant shall submit for the written agreement of the Planning Authority the following provisions related to cycle parking facilities:</p> <p>(i) The Applicant shall provide secure, covered long-stay (staff) cycle parking spaces, with a minimum provision of one space per five staff members, in compliance with the requirements specified in Dun Laoghaire-Rathdown County Council's Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018), Section 4.2.</p> <p>(ii) The Applicant shall provide a drying room or clothes rack to accommodate pedestrians and cyclists who travel significant distances to work. This facility shall allow for convenient drying of clothes, shoes, jackets, gloves, and helmets before their journey home each day.</p> <p>Reason: In the interest of amenity.</p>
11.	<p>A comprehensive landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:</p> <p>(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> <p>(c) details of proposed street furniture, including bollards, lighting fixtures and seating;</p> <p>The landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity.</p>
12.	Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority a structural report

	<p>demonstrating the proposed development would not impact on the stability and integrity of adjoining lands, property and common boundary walls.</p> <p>Reason: In the interest of residential amenity of adjoining property.</p>
13.	<p>(a) Prior to the commencement of the proposed development, noise, vibration and dust monitoring stations shall be installed and maintained to provide continuous monitoring to measure and record the impact of site activities on local receptors. Noise monitoring to demonstrate compliance with the recommendations contained in BS 5228 shall be installed, monitored and reported on at weekly intervals by a suitable qualified specialist company for the duration of the contract. All monitoring data shall be compiled into a weekly technical monitoring report which shall identify remedial measures where levels exceed relevant limit values.</p> <p>(b) Prior to the commencement of development, a Noise Management Plan shall be submitted to and agreed upon in writing by the Planning Authority (Environment Section), which shall demonstrate a selection of construction methodology and implementation of mitigation measures to minimise nuisance affecting adjoining properties and design of building services to avoid the creation of nuisance both in the completed development and adjoining residential areas.</p> <p>REASON: In the interest of residential amenities.</p>
14.	<p>(i) Noise during site clearance and construction shall not exceed 65 dB(A) and the peak noise shall not exceed 75 dB(A) when measured at any point off site.</p> <p>(ii) Noise from the premises shall not exceed the background levels by more than 5 dB(A) during the period 0800-2200 and by more than 3 dB(A) at any other time when measured at any external position at a noise-sensitive premises.</p> <p>Reason: In the interest of residential amenity.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of</p>

	<p>development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
16.	<p>A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
17.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
18.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p>

	<p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
19.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Brendan Coyne
Planning Inspector

27th July 2023