



An
Bord
Pleanála

Inspector's Report

ABP-313781-22

Development

Permission is sought for a specialised 'later living' development, comprising the construction of a four-storey apartment block and the provision of a total of 29 build-to-rent residential apartments. The proposed works will comprise the change-of-use, internal reconfiguration and modification of existing 'Mount Auburn', together with all associated site works.

Location

'Mount Auburn', Killiney Hill Road, Killiney, Co. Dublin.

Planning Authority

Dún Laoghaire-Rathdown County Council.

Planning Authority Reg. Ref.

D22A/0199

Applicant(s)

Killiney Later Living Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

1st Party

Appellant(s)	Killiney Later Living Ltd.
Observer(s)	None
Date of Site Inspection	29 th June 2023
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.3ha, is located on the western side of Killiney Hill Road, Killiney, Co. Dublin. The site is elevated, with fine views to the north across Dublin Bay. The gradient falls from southeast to west and northwest – from approximately 98m OD to 93m OD. There is a two-storey-over-basement house on the site ‘Mount Auburn’ – set within mature gardens. The area to east and west of the house has been excavated, to allow light to penetrate to basement windows. The house has plastered walls and a hipped, slated roof. A single- and two-storey return to the rear (‘Mount Auburn Mews’) has been separated from the house, with new access from the Mount Auburn housing estate to the north. There is a round-headed window (fitted with dark green glass) in this mews building, addressing the garden of ‘Mount Auburn’. The vehicular entrance comprises fine cut-granite entrance piers on which are hung heavy wrought-iron gates (electronically controlled). Sight distance is good in either direction at this egress. There is no access to ‘Mount Auburn’ from the Mount Auburn housing estate to the north.
- 1.2. Immediately to the west and north is the Mount Auburn housing estate, of two-storey, detached units – constructed within what would have once been the curtilage of ‘Mount Auburn’. This estate is at a lower level than the appeal site. The boundary is a concrete-block retaining wall (1.5-3.0m high), surmounted by a trimmed griselinia hedge (3.0m in height on the site side). There is a gated (but not locked) pedestrian pathway from Killiney Hill Road to the Mount Auburn housing estate immediately to the north of this retaining wall/hedge. To the south, the site abuts the curtilage of ‘Knockaderry’, a two-storey, detached house, with access from Killiney Hill Road. The boundary with this house is a 2.5m high, old stone wall. To the southwest, the site abuts the RC church of St. Stephen (dating to the 1980’s, and a Protected Structure) – the boundary with which is a 2.5m high concrete wall (on the site side) to the front courtyard, and the two-storey-height walls of the church itself for the remainder. There are high-level windows the western elevation of this church – directly onto the appeal site. There is a metal pedestrian gate (now off its hinges) linking the curtilage of the church with the garden of ‘Mount Auburn’ – at the most southerly point of the appeal site. This, together with the fact that there is a large cross, erected on the northern external wall of the church (which can only be seen

from the garden of 'Mount Auburn') would lead to the conclusion that the church property and 'Mount Auburn' once formed a single property. Certainly, this church site would once have formed part of the curtilage of 'Mount Auburn'. The boundary with Killiney Hill Road is a 1.8m high granite rubble wall. Immediately opposite the appeal site is a new pedestrian entrance to Killiney Hill Park.

- 1.3. Killiney Hill Road is narrow and twisting further to the south – although this stretch of the road is generally wider and straighter. There is a single, unbroken, white line in the centre of the road, at this location. The 50kph speed restriction applies in this area, and there are speed ramps in place. There is a 1.3m footpath on the site side of the road only, and public lighting is in place. There is a small amount of public footpath on the opposite side of the road – associated with a new feature entrance to the Killiney Hill Park. Killiney Hill road is too narrow to allow of the provision of bicycle lanes. There are 8 parallel parking spaces hard against the wall of Killiney Hill Park – on the opposite side of the road. Killiney Hill Road is served by 'Go-Ahead' bus route 59.

2.0 Proposed Development

- 2.1. Permission sought on 21st March 2022, for development of a Build-to-Rent apartment development for later-living – comprising 29 apartments (7 two-bedroom units and 22 one-bedroom units).
 - The development provides for the change-of-use and internal reconfiguration of 'Mount Auburn'; 415sq.m – of which 388sq.m is to be retained. Within the house, apartments and community facilities will be provided. Minor demolition is proposed at the house, and a new lift core is to be built to the rear.
 - The old house will be connected by a glazed link to a new, four-storey, apartment block (3,957sq.m). Within this block, there are further community facilities for residents.
 - Provision is made for 13 car-parking spaces – 9 of which are at undercroft level, within the new apartment block.
 - Retaining wall provided on boundary with St. Stephen's church and eastern side of apartment block.

- 44 bicycle parking spaces.
- Access from Killiney Hill Road to be widened from 3.0m to 5.4m.
- An electricity substation is to be provided at undercroft level within the apartment block.
- Basement plant room.
- Demolition of small garden shed.
- Ancillary works to include landscaping, bin-storage and drainage.
- The development will be connected to public foul & surface water sewers and to the public watermains (new connections within Mount Auburn estate).

2.2. The application is accompanied by the following documentation of note-

- Sample Agreement, pursuant to section 47 of the Planning and Development Act, 2000 (as amended), relating to BTR units remaining in the ownership of an institutional entity, for at least 15 years from the date of grant of permission.
- Letter, dated 15th December 2021, in relation to fire safety.
- Letter, dated 7th March 2022, from Housing Department of DL-RCC, relating to compliance with Part V of the Act.
- Car-parking Provision – Operator Statement – undated.
- Construction Management Plan – dated 16th December 2021.
- Transportation Assessment Report (including Preliminary Mobility Management Plan) – undated.
- Acoustic Design Statement – 17th December 2021.
- Clinical & Non-Clinical Waste Management Report – dated 1st April 2021.
- Arboricultural Report – dated 16th December 2021.
- External Lighting Report – dated 16th December 2021.
- Energy & Sustainability Statement – dated 16th December 2021.

- Landscape Design Report & Performance Standards – dated 15th December 2021.
- Engineering Infrastructure Report – dated 17th December 2021.
- Planning Report – undated.
- Operator Statement – undated.
- Conservation Assessment – undated.
- Screening Report for Appropriate Assessment – dated December 2021.
- Ecological Impact Statement – dated December 2021.
- Architectural Design Statement (A3-size) – dated December 2021.
- Photomontages (A3-size) – dated December 2021.
- Daylight & Sunlight Assessment Report (A3-size) – dated January 2022.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 13th May 2022, Dún Laoghaire-Rathdown Co. Council issued a Notification of decision to refuse permission, for one reason as follows-

Having regard to the position of the subject site to existing public transport routes, the BTR development does not accord with the provisions of Policy Objective PHP28: Built-to-Rent and Shared Accommodation/Co-Living Developments and Section 12.3.6 Build-to-Rent Accommodation of the Dún Laoghaire Rathdown County Development Plan 2022-2028, under which BTR development is required to be located within a 10 minute walking time of high frequency public transport routes. The development of BTR development at the subject site would therefore be inconsistent with the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028. Furthermore, the development of BTR development at the subject site would, if permitted, set an undesirable precedent for similar development. The development proposed would thus be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report, of 13th May 2022, incorporates the recommendations of all internal reports, and summarises the objections received in relation to the development. The report ultimately recommends refusal for just one reason relating to proximity to public transport. Page 44 of the Report does list a number of concerns in relation to the design, which would require further consideration, in the event that permission was to be granted. The list contains 12 bullet points, raising issues as follow-

- Impact on St. Stephen's church – a Protected Structure.
- Density.
- Unit mix.
- Section 47 agreement.
- Screening on balconies on northern elevation.
- Daylight & sunlight assessment for basement apartment in 'Mount Auburn'.
- Issue of overlooking between first-floor apartment in 'Mount Auburn' and apartments on western elevation of the new apartment block.
- Details regarding private amenity space of basement apartment in 'Mount Auburn'.
- Clarity relating to retention of screen hedging on northern and northwestern boundary.
- Drainage issues – including quantum of green roofs.
- Quantum of car-parking provision, bicycle parking provision; including universal access throughout the site.
- Issues raised in the report of the Environmental Health Officer.

3.2.2. Other Technical Reports

Environmental Health Officer

Undated report requested additional information in relation to demolition waste, operational waste management and Construction Environmental Management Plan.

Public Lighting

Report, of 29th March 2022, indicates that bollards and low-level mounted wall lighting are not recommended. Whilst lighting levels are higher than for a residential development, proposals are consistent with this type of development.

Housing Department

Report, of 7th April 2022, notes that the applicant proposes to comply with Part V – 2 residential units off-site for social housing. The proposal is capable of complying with the requirements of Part V of the Act.

Municipal Services Department – Drainage Division

Report, of 22nd April 2022, indicates that applicant appears to be diverting private surface water sewers which traverse the site – and which seem to serve 18-20 Mount Auburn. Percentage coverage of green roof is not quantified; and some drawings do not show green roof. No site-specific infiltration test results, appropriate to the location of the proposed soakway, have been submitted. Void ratio of crushed stone within the soakway is too high at 65% and would normally be closer to 40%. Fully-dimensioned plans of the soakway are required. Whilst reference has been made to rain-gardens, tree-pits, swales and permeable paving – these have not been indicated on drawings submitted. All SuDS features should be indicated on drawings submitted. Proposed trees are located too close to the soakway – and should be a minimum of 2m from it. A site-specific flood risk assessment is required. Additional information is required in relation to all of the above.

Environment Section – Planning

Report of 25th April 2022 recommends permission, subject to conditions relating to environmental monitoring, noise management, acoustic screening, liaison with the public and pest control during the construction phase.

Transportation Planning

Report dated 5th May 2022 refers to policy objective PHP28 in relation to 10-minute walking distance from high-quality public transport. The number 59 bus route is hourly. Parking provision is too low – 32 spaces are required for this development. Electric charging and car-sharing space should be provided. Bicycle parking should be covered, and provision should be made for cargo bicycles. There should be a

dedicated pedestrian entrance route into the site from Killiney Hill Road. A detailed construction traffic access & parking plan is required. Additional information was recommended to deal with the above items.

3.3. **Prescribed Bodies**

Uisce Éireann

Report, of 24th April 2022, indicates no objection to proposal.

3.4. **Third Party Observations**

Observations from local residents are summarised in the Planner's Report.

4.0 **Planning History**

D18A/0732: Permission refused on 19th September 2018, for four-storey block of 12 apartments on this site, because density was too low – at 27 units per hectare.

D19A/0054: Permission granted on 29th August 2019, for three- and four-storey block of 14 apartments.

D20A/0148: Permission granted on 24th September 2020, for amendments to permitted apartment development under ref. D19A/0054 – to provide overall for two additional apartments. One apartment was omitted by way of condition.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The relevant document is the Dún Laoghaire Rathdown County Development Plan 2022-2028.
- 5.1.2. The site is zoned Objective A – “To provide residential development and improve residential amenity while protecting the existing residential amenities”. Build-to-rent apartments are ‘Open for consideration’ within this zoning.
- 5.1.3. There is a specific icon for this site on the zoning map – “To protect and preserve trees and woodlands”.

- 5.1.4. The adjoining St. Stephen's church is a Protected Structure (Ref. number 1636).
- 5.1.5. Section 4.3.2.4 contains Policy Objective PHP28: Build-to-Rent and Shared Accommodation/Co-living Developments, and states, *inter alia*- "It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments, 2020' (and any amendment thereof)". It goes on to state- "BTR shall be located within a 10 minute walking time from high frequency public transport routes. BTR will be considered as a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one area shall be avoided". This 10-minute walking requirement is repeated at section 12.3.6 of the Plan.
- 5.1.6. Section 12.3.8.1 states in relation to 'Age Friendly Housing' – "Having regard to the current and future demographic conditions and the ageing demographic of the County, it is an objective of the of DLR to promote an age friendly approach by ensuring that both existing and proposed residential developments are future proofed for an ageing population. In accordance with the principles of the Policy Statement 'Housing Options for Our Ageing Population' 2019, the Planning Authority will advocate age-friendly thinking with respect to new developments in the County in particular at pre-planning stage. Developers should consider an Age-friendly approach, with facilities and materials inclusive of an age-friendly community/society in line with the above guidelines".
- 5.1.7. The site is located within Parking Zone 3. Table 12.5 indicates a requirement for one parking space per apartment + one visitor space for each 10 apartments. Section 12.4.5.6 states- "For the purposes of the parking standards set out in Table 12.5 below Built to Rent development are considered to be residential apartments. Where a Built to Rent scheme avails of lower car parking based on the nature of the use a condition should be attached to any grant of permission to state that planning permission shall be sought for a change of tenure to another tenure model following the period specified in the covenant".
- 5.1.8. Section 12.4.5.2 states the following, in relation to application of car-parking standards-

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

- Proximity to public transport services and level of service and interchange available.
- Walking and cycling accessibility/permeability and any improvement to same.
- The need to safeguard investment in sustainable transport and encourage a modal shift.
- Availability of car sharing and bike/e-bike sharing facilities.
- Existing availability of parking and its potential for dual use.
- Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).
- The range of services available within the area.
- Impact on traffic safety and the amenities of the area.
- Capacity of the surrounding road network.
- Urban design, regeneration and civic benefits including street vibrancy.
- Robustness of Mobility Management Plan to support the development.
- The availability of on street parking controls in the immediate vicinity.
- Any specific sustainability measures being implemented including but not limited to:
 - The provision of bespoke public transport services.
 - The provision of bespoke mobility interventions.

5.2. Other Guidance

5.2.1. Circular Letter NRUP 07/2022 of the Department of Housing, Local Government and Heritage (dated 21st December 2022), deals, *inter alia*, with amendments to the *Sustainable Urban Housing - Design Standards for New Apartments Guidelines for Planning Authorities (2020)*. This amendment removes Specific Planning Policy Requirements (SPPRs) 7 & 8 of the Apartment Guidelines. The effect of this

amendment is that Build-To-Rent (BTR) is no longer a distinct class of development for planning purposes, and that planning standards for BTR development are required to be the same as those for all other generally permissible apartment types. Section 5.0 of the Apartment Guidelines continues to recognise BTR development as a valid form of rental accommodation and sets out typical characteristics, but with no allowable divergence from the minimum standards for apartments generally, which are set out in Section 3.0 and Section 4.0 of the Guidelines. This ensures that apartment developments, irrespective of the intended end user, will be designed to the same minimum standards. Of particular note is that all current appeals, or planning applications and appeals, that are subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the 2020 version of the Apartment Guidelines, that include SPPRs 7 & 8.

5.2.2. Within the 2020 Guidelines SPPR 7 states-

BTR development must be:

- a) Described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;
- b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:
 - (i) Resident Support Facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

5.2.3. Within the 2020 Guidelines, SPPR8 states-

For proposals that qualify as specific BTR development in accordance with SPPR 7:

- (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;
- (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.
- (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;
- (v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

5.2.4. In accordance with Circular Letter NRUP 07/2022, this appeal case falls to be dealt with under the 2020 Apartment Guidelines, and not the 2022 Apartment Guidelines.

5.3. Natural Heritage Designations

The application was accompanied by a 'Screening Report for Appropriate Assessment'. The site was surveyed on 3rd December 2021 – and comprises a large house surrounded by suburban gardens. There are a number of mature trees on the site. The closest European sites are the Dalkey Islands SPA (1.7km to the northeast) and the Rockabill to Dalkey SAC (1.6km to the east). There are no watercourses either within or adjoining the site, which could link it with a waterbody-defined Special Area of Conservation or Special Protection Area. Wastewater will be discharged to the public sewer system; and surface water run-off will be attenuated on site, prior to discharge to the public sewer network. DL-RCC concluded that the proposed development would not significantly impact on a Natura 2000 site.

The proposed development is located within an established suburban area, on zoned lands that are suitably-serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 sites. A Stage 2 Appropriate Assessment is, therefore, not required.

5.4. EIA Screening

The application was accompanied by an 'Ecological Impact Statement'. The site was surveyed on 3rd December 2021. The site comprises mostly suburban garden with some mature trees. There was no evidence of badger activity on the site. No bat survey was carried out – owing to the time of year in which the site survey was carried out – although the report notes that a number of bat species have been recorded in the vicinity. I note that permission has already been granted for an apartment block on this site. DL-RCC concluded that there would be no real likelihood of the proposed development having a significant effect on the environment. Having regard to the nature of the proposed development, comprising the construction of an apartment block and refurbishment of an house, including all necessary site works, in an established suburban area, where infrastructural services are available, 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 on preliminary examination; and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The 1st Party appeal from Hughes Planning & Development Consultants, agent on behalf of the applicant, and received by the Board on 9th June 2022, can be summarised in bullet-point format as follows-

- Additional information should have been sought from the applicant – as recommended in various departmental reports to the Planning Section.
- Build-to-Rent apartments are ‘Open for Consideration’ with the Development Plan zoning. The development provides for residential use, whilst protecting existing residential amenities. The Planner’s Report considered that the development would not negatively impact on residential amenities of the area.
- The 10-minute walking requirement to high-frequency public transport is overly-restrictive and inflexible. The Sustainable Urban Housing Guidelines for Apartments do not specify any 10-minute walking requirement. Shared mobility measures must be considered for apartments such as these. This national policy over-rides the policy of the Development Plan. The site benefits from the proximity of the ‘Go-Ahead’ 59 bus service (hourly), and is within 17 minutes’ walk of Dalkey DART station and 20 minutes’ walk of Killiney DART station. This 10-minute walk requirement is not specifically contained within a policy objective – but rather is mentioned within the body of section 12.3.6 of the Plan. The Apartments Guidelines 2020 do not contain a 10-minute walking requirement. The Guidelines state the requirement that a BTR scheme have a strong central management regime – intended to contribute to the capacity to establish and operate shared mobility measures. Significantly-reduced car-parking is encouraged for BTR schemes, on the basis that they are more suitable for central locations and/or proximity to public transport services.

- The tenure model of the scheme is aimed at those aged 65+, seeking a degree of supported independent living. The scheme will have a courtesy shuttle service (on-demand electric vehicle which is fully wheelchair-accessible), club-car facility, bicycle facilities and private car options. The National Planning Framework 2040, and the Development Plan, support this type of accommodation. The proposal is an hybrid model – which does not strictly fit the ‘Build-to-Rent’ model. Traditional ‘Build-to-Rent’ schemes tend to be aimed at a younger age cohort. The planning authority has been entirely inflexible in dealing with this application.
- The population of the county is ageing, and the county has a higher proportion of people in the 65+ age cohort than other Dublin planning authorities.
- ‘Mount Auburn’ is to be retained and integrated into the development.
- Having regard to the nature of the proposed accommodation, it is considered that the quantum of one-bedroom units is appropriate.
- A comprehensive landscaping scheme accompanies the application. The spaces will be accessible for all, and will provide for secluded amenity spaces in a variety of locations. Outdoor gym equipment will be provided.
- The proposal makes a more efficient use of a presently underutilised and serviced site within the built-up suburban area of Killiney.
- The density of the proposed scheme may be high in terms of numbers of units, but it must be noted that the scheme provides for 36 bedrooms; where permission ref. D20A/0148 allowed for 31 bedrooms. The development will provide for compact growth on an infill site.
- The development could be considered to be ‘sheltered housing’.
- The two-bedroom units are for three-persons, and the floor areas are well in excess of the minimum recommended 63sq.m.
- The applicant is open to entering into a section 47 agreement with the planning authority to restrict the occupation of these units to persons of a particular class.

- Provision is made for 13 car-parking spaces. The use, by its very nature, is a very low-level traffic-generator, and is not reliant on access by car. Car-ownership among senior citizens in the over-65's cohort, is noted as being generally low. A majority of residents will qualify for free public transport. Trip generation to see consultants and other health professionals will be reduced, through provision on on-site consultancy services. Local shops will deliver groceries.
- The applicant offers a revised scheme for the consideration of the Board.
 - The number of apartments proposed is now reduced to 28 – by the omission of a third-floor unit adjacent to St. Stephen's church. The resultant mix is 23 one-bedroom units and 5 two-bedroom units.
 - New lightwells and larger windows proposed for basement apartment in 'Mount Auburn'. This unit is altered from being a two-bedroom to a one-bedroom unit.
 - Balcony screens introduced to prevent overlooking between terraces (2 impacted) and apartments (5 impacted) and Mount Auburn housing estate; and between the apartment block itself and 'Mount Auburn' (5 apartments impacted).
 - The number of bicycle parking spaces is reduced to 36. Covered parking areas are now proposed for almost all spaces.
 - Parking introduced for mobility scooters in undercroft area.
 - Entrance gate is further widened to provide for pedestrian access by way of a footpath.
 - New outdoor wheelchair lift is proposed from terrace to garden area on eastern side of apartment block.
 - Design for permeable paving is submitted.
 - Hedge on northern and northwestern boundary is to be retained.
- The appellant outlines a number of Board decisions relating to higher-density apartment developments, and schemes for independent/older living.

6.1.2. The appeal is accompanied by the following documentation of note-

- Alternative Design Option Architectural Drawings.
- Architectural Design Statement (Appeal Addendum) – dated 9th June 2022.
- Hibernia Senior Living letter, relating to proposed transport options.
- NRB Consulting Engineers letter, in relation to issues raised in the Transportation Planning report of DL-RCC.
- Engineering Infrastructure Report – dated 8th June 2022 (including letter from MMOS Consulting Civil & Structural Engineers).
- Revised Landscape Plan and accompanying letter – dated 7th June 2022.
- Daylight & Sunlight Assessment Report (A3-size) – dated June 2022.
- Photomontages (A3-size) – dated June 2022.
- Construction & Demolition Waste Management Plan – dated 2nd June 2022.
- Construction Management Plan – dated 2nd June 2022.
- Conservation Assessment Report – dated May 2022.

6.2. Planning Authority Response

The response of DL-RCC, received by the Board on 1st July 2022, comprises a letter from the Municipal Services Department – Drainage Division, stating that the reason for refusal did not relate to drainage issues. Additional information was recommended; as it is best to address such issues during the planning consideration process, to prevent major re-designs post-grant. Although the applicant may consider the items raised in the further information request to be amenable to condition, it is uncertain what “knock-on” effects, the changes required, could have on the overall design of the development and other disciplines’ design proposals. The Drainage Department is generally satisfied with the responses to the surface water further information items (outlined in the MMOS Consulting Engineers report, dated 8th June 2022). However, many items which would have been more suited to agreement prior to grant of permission will now require compliance documentation to be submitted, prior to commencement of development. Should the Board be minded to grant permission, the following conditions are suggested to address the issues raised in the original further information request from the Drainage Division-

1. Relating to diversion of surface water sewers within the site.
2. Relating to SuDS measures relating to green roofs.
3. Relating to storage capacity of permeable paving.
4. Relating to measures to accommodate flood waters within and through the site – including protection of adjoining sites.

6.3. Observations

None received.

7.0 Assessment

7.1. Development Plan & Other Guidance

- 7.1.1. The development proposed is residential, on residentially-zoned lands. The A zoning for the site indicates that BTR units are ‘Open for Consideration’. The ‘Sustainable Urban Housing Guidelines, 2020’ state that Build-to-Rent apartments are treated somewhat differently to other apartments, by reference to standards. The development is acceptable in principle. The Plan supports the concept of ‘Age-friendly housing’ within the county. I have elsewhere noted that there is a live permission for a three- & four-storey apartment block on this site. I would be satisfied that the proposed housing model would complement the mix of housing in this area – which largely comprises detached houses. The Planner’s Report notes that section 39(2) of the Act allows planning authorities to specify the purposes for a which a structure may or may not be used by way of section 47 Agreement. This is of particular relevance in this instance, where the development has been targeted at a particular age demographic or those who need age-appropriate housing, and a range of supports to enable independent living. The application documentation submitted to DL-RCC includes a sample 15-year section 47 agreement for these BTR units – whereby units would remain in the ownership of an institutional entity for at least 15 years. This is referenced in SPPR7 (a). The Planner’s Report refers to this agreement coming into force from the date of first occupation of units rather than to the date of grant of permission. This would appear to be reasonable. The Report also goes on to state that a longer period may be appropriate, given the specific

target demographic and the communal facilities to be provided – without specifying what that longer period might be. I note that the Apartment Guidelines refer to a minimum [my emphasis] period of not less than 15 years – and do not state any maximum period. Having regard to my recommendation to refuse permission, consideration of what this extended period might be is moot. Included with the application is an ‘Operator Statement’ from Killiney Later Living, outlining the vision, values, offer and operating model, on which this development would run.

- 7.1.2. Policy Objective PHP28 states- “It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of ‘Sustainable Urban Housing: Design Standards for New Apartments, 2020’ (and any amendment thereof)”. Elsewhere in this Inspector’s Report, comment is made in relation to the standards required for new apartments in the Guidelines (2020). Section 4.3.2.4 of the Plan goes on to state- “BTR shall be located within a 10 minute walking time from high frequency public transport routes”. This was the sole reason for refusal in relation to the proposed development – notwithstanding that the Transportation Division of DL-RCC had sought additional information in relation to this, and other roads and transport issues. The 2020 Guidelines clearly state at SPPR8 (iii) that- “There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures”. I note that this part of SPPR8 refers to “BTR development being more suitable for central locations and/or proximity to public transport services”. This does not apply in the instance of this site. The location is not “central”, and, whilst there is a bus service on Killiney Hill Road, it is an hourly service, which cannot be considered a quality public transport service. The Development Plan does not require that non-BTR apartments be located within a 10-minute walking time of high-frequency public transport routes. For this reason, I consider that the 10-minute walking consideration should not have primacy in the consideration of this appeal; and that the scheme should be judged by the same standards as any other residential development within the county. Section 4.3.2.4 of the Plan states- “BTR will be considered as a component part of achieving an appropriate mix of housing, however, a proliferation of Build to Rent in any one

area shall be avoided". There is no evidence that there is a proliferation of BTR units in this area of the county.

7.1.3. There is an icon on the zoning map for the site, indicating an objective "To protect and preserve trees and woodlands". The area retains a sylvan character, largely due to the presence of woodland within Killiney Hill Park on the opposite side of the road, and because of mature trees within garden curtilages along the road. There are a number of fine mature trees throughout this suburban garden. The application is accompanied by an Arborist's Report, which identifies 15 trees of note on this site (of varying age and condition)-

- 301 (a mature sycamore) is to be felled, to facilitate a widened vehicular entrance to the site off Killiney Hill Road.
- 302 (a mature larch) is to be retained.
- 303 (a semi-mature elm) is to be felled because of crowding with adjoining trees.
- 304 (a mature sycamore) is to be retained.
- 305 (a mature horse chestnut) is to be retained.
- 306 (a mature Corsican pine) is to be retained.
- 307 (a semi-mature Norway maple) is to be retained.
- 308 (a mature Norway maple) is to be felled.
- 309-312 (a group of semi-mature western red cedars and beech), which may have been planted as a hedge, are to be felled.
- 313 (a semi-mature cabbage palm) is to be retained.
- 314 (a mature flowering cherry) is to be retained.
- 315 (a mature atlas cedar) is to be felled.
- 316 (a mature giant redwood) is to be felled.

Drawings submitted with the application and appeal vary on just which trees are to be retained. Trees 302, 304, 305 & 306 are the only trees which are consistently indicated in drawings and documentation as being retained. Having examined the trees on site immediately adjacent to St. Stephen's church, I would see no difficulty

with their removal – as they would appear to have been planted as an hedge (309-312). The loss of tree 201 is unfortunate – a fine mature sycamore at the entrance gates. Its removal will result in the site being much more open to view from Killiney Hill Road than is the case at present. There is a very fine mature Monterey cypress (indicated as Tree 1 on drawings submitted), located just outside the western boundary of the site. The root and crown spread of this tree extend into the appeal site (it would have once been within the garden curtilage of ‘Mount Auburn’). It now appears to be within curtilage of ‘Mount Auburn Mews’. I would be satisfied that the construction of a bicycle store within the root/crown spread would not result in any significant damage to this tree – particularly where there are driveways, footpaths and road surfaces already within its root/crown spread. In note that the permission granted for an apartment development on this site (ref. D19A/0054) would result in the felling of trees 315 & 316. These are probably the most handsome trees on the site – particularly in their grass lawn setting. Permission was granted at a time when there was no Development Plan objective to protect trees on this site. In light of the Development Plan designation to protect trees on this site, I consider that the loss of so many mature trees would run contrary to this objective. Permission should be refused for this reason. I note that the griselinia hedge on the northern and western boundary is to be retained – confirmed by way of 1st Party appeal submission. In addition, I note that significant landscaping works are to be undertaken throughout the site – to create new garden areas for residents, and to improve the visual amenities of the site.

7.2. Design & Layout

- 7.2.1. The applicant has submitted a considerable amount of information to justify this type of independent/older living. The appeal documentation gives examples of this type of development constructed elsewhere in the country. I would see no difficulty with this concept. The Development Plan supports the concept of ‘Age-Friendly’ housing. In this connection, the quantum of one-bedroom units may be appropriate. I note that the scheme is not a nursing home, and would not seem to provide direct supports for independent living. There is no indication given of on-site warden or staffing provision, for residents who might need additional supports. The proposed revised development provides for only 5 two-bedroom units – the remaining 23 being one-

bedroom units. There are no studio units within the scheme. The difficulty with the arrangement lies in the possibility that this development would move from the Build-to-Rent model for independent/older living; and that at some stage in the future, it would become a standard apartment block with an overwhelming number of one-bedroom units, with a potential planning application for change-of-use from communal areas to further apartments. One way around this difficulty would be to attach a condition requiring any change from the Build-to-Rent for independent/older living, to require a grant of planning permission. The Apartments Guidelines indicate at SPPR1, that new developments may include up to 50% one-bedroom units; and that there is no requirement for three-bedroom units. SPPR7 (i) goes on to state that no restrictions on dwelling mix shall apply in the case of BTR units. Appendix 2 of the Plan indicates that the percentage of the population within the 65+ bracket in 2016, at 15.9% is higher than for any of the other Dublin authorities or than the average for the state as a whole, at 13.4%. The percentage living in apartments within the county is only exceeded by Dublin City Council. Having regard to the prospective tenants of this scheme, I would be concerned that an insufficient number of the apartments could meet the needs of a resident(s) who might require an overnight carer – either temporarily or permanently. To this end, the development would not appear to be particularly ‘age-friendly’. Five of the apartments only have a second, single bedroom.

- 7.2.2. ‘Mount Auburn’ is not a Protected Structure. Notwithstanding this, the application is accompanied by a Conservation Assessment – revised with the 1st Party appeal submission. The house, dating to the mid-19th Century sits within a much-reduced curtilage. Mature planting on the Killiney Hill Road boundary, largely screens the house from view. The house is in a good state of repair and has been well-maintained. A two-storey return to the rear has been hived-off into separate ownership – ‘Mount Auburn Mews’, and is not included in the proposed development. A single-storey extension to the rear of the house is to be removed, and in its place, a lift linking all three levels of the house with the proposed new apartment block is to be built. This lift structure will not be visible from the front of the house. An area is to be excavated at the front of the house, to allow for more light to penetrate the new basement apartment. The creation of the new basement apartment provides for the removal of the connecting stairway to the *piano nobile*. I

note from photographs submitted, that this staircase is a modern substitution: and I would, therefore, see no difficulty with its removal. A further apartment is to be created at first-floor level. The basement apartment is to be provided with an outdoor terrace. This is not possible for the first-floor apartment. Having regard to the generous size of this first floor apartment, and the desire to maintain the architectural integrity of 'Mount Auburn', I would see no difficulty with the absence of a terrace/balcony for this apartment. The *piano nobile* of the house is to be given over to communal facilities (members dining, coffee and relaxation rooms) for residents of all the apartments. Minor interventions are required within the house to repurpose it for the proposed new uses. The 1st Party appeal submission made minor alterations to the original proposal. I would be satisfied that the proposed changes will maintain the character of this attractive suburban villa.

- 7.2.3. Permission has previously been refused for an apartment development on this site, on the grounds that the density was too low. Permission exists for an apartment development of 14 apartments (ref. D19A/0054). This quantum was increased by one further apartment by way of permission (ref. D20A/0148). The Planner's Report of DL-RCC, states that this quantum of apartments was served by 21 parking spaces. This site is somewhat constrained by the need to retain mature trees, respect the setting of 'Mount Auburn' (although not a Protected Structure), have regard to the adjoining St. Stephen's church (a Protected Structure), and to ensure that the development does not unduly impact on adjoining residential property in terms overlooking and overshadowing. The original scheme provided for 29 apartments. There is a suggested reduction of one unit by way of appeal submission. In addition, the proposed development provides for a considerable quantum of communal facilities (which floor area is not included in calculation of residential density). The proposed density is 93 units per ha. I would consider this to be high – on what, by Apartments Guidelines definition would appear to be a "Peripheral and/or Less Accessible Urban Location", where reference is made to low-medium densities of broadly 45 dwellings per ha. The desire to create this number of apartments, together with the provision of a wider array of communal services and spaces, has resulted in over-development on a constrained site.
- 7.2.4. A retaining wall is to be constructed along the southern and eastern side of the new apartment building – to take account of the sloping nature of the site. This retaining

wall will result in the creation of what is termed an 'undercroft' – where part of the level is below existing ground level and part at ground level. The undercroft area will provide for parking, plant, electricity sub-station, communal facilities (spa, hydrotherapy, fitness and cinema) as well as 3 apartments.

- 7.2.5. External finishes proposed include light and dark render, polished & rough stone cladding, light-coloured brick, aluminium windows, glazed balconies, and louvred screens [presumably in metal]. Photomontages have been submitted with the application, which give some indication of what the new apartment block may look like. I would be satisfied that the development would not detract from the visual amenities of the area, in terms of external finishes. It would be possible to attach a condition to any grant of permission to issue from the Board, requiring the applicant to agree, in writing, all external finishes, prior to the commencement of any development.
- 7.2.6. The individual apartments meet all of the standards of the “Sustainable Urban Housing: Design Standards for New Apartments, 2020”. The applicant has submitted a justification of the preponderance of one-bedroom units – although I have elsewhere in this report raised issues in relation to inability to cater for overnight carers. All apartments exceed the minimum floor areas – some by a generous margin. Minimum aggregate floor area requirements for living/dining/kitchens and bedrooms are all met. Minimum living-room width requirements are met. Minimum storage and balcony/terrace areas are complied with. I have elsewhere in this report argued why a balcony/terrace is not required for the first-floor unit in ‘Mount Auburn’. There is generous provision of communal amenity space – both indoors and outdoors. Minimum floor-to-ceiling height requirements are met throughout the development – although the basement apartment within ‘Mount Auburn’ does not meet with the 2.7m recommendation for ground floor units (if indeed this unit could be considered to be a ground floor unit). The majority of units within the development are dual-aspect – some 20 of the 28 proposed.
- 7.2.7. The pedestrian access arrangements to the new apartment building are poorly thought out. The principal access to the block would appear to be from a pedestrian pathway on the eastern side of the block – up a short flight of steps or via an outdoor lift. There is no facility for drop-off/collection of heavy items or for those with

restricted mobility. There is an access to the building from the undercroft parking area. There is pedestrian access to a glazed entrance area beside 'Mount Auburn'. There is no facility for drop-off/collection at this access either. It is a considerable walk through the spa/treatments area to reach the lift/stair core within the main apartment block. There may be direct access from the grounds, for the 3 apartment units at undercroft level – although this is not clearly shown. Access to the two apartments within 'Mount Auburn' is good. I would be concerned that the proposed development, targeted at an older age cohort, provides for poor access arrangements within a new building. The building does not appear to provide any space for staff or for storage/cleaning/grounds & garden maintenance – particularly where there is a spa, hot-tub and hydrotherapy area included.

7.2.8. Six units within the new apartment block directly address the eastern elevation of 'Mount Auburn' – reduced to five, by way of 1st Party appeal submission. There are apartment units at basement and first-floor level within 'Mount Auburn'. The planning authority had concerns in relation to overlooking and lack of privacy – where the new apartment block was separated from the eastern elevation of 'Mount Auburn' by between 6.5m and 7.0m. The 1st Party appeal solution to this difficulty was the erection of louvred screens on part of the balconies of the five affected apartments. These screens are erected along approximately 50% of the length of affected balconies – the overlooking issue remaining for the other 50% of each. The very fact that such screens should be necessary, points up a design problem in relation to the position of the new apartment block, *vis a vis* the old house. This design solution does not effectively deal with the issue of overlooking between old and new buildings. The louvred screens would have a serious impact on levels of daylight and sunlight within the affected five apartments – something which has not been addressed in the revised Daylight & Sunlight Report submitted with the 1st Party appeal. Permission should be refused for this reason.

7.2.9. The planning authority was concerned in relation to potential overlooking of property within the Mount Auburn estate. The appeal site is elevated, relative to houses within this estate. There is a retaining wall (surmounted by a griselinia hedge) along the boundary with the housing estate. This boundary feature is up to 6m in height, when measured on the housing estate site. Indeed, the roof of 20 Mount Auburn (a two-storey house) is only just visible from the garden of 'Mount Auburn' – due to the

height of the retaining wall/hedge feature. I note too that there is an intervening public footpath linking the estate with Killiney Hill Road. The proposed four-storey apartment block is set back between 7m and 12m from the northern boundary of the site. There are bedroom windows in the northern elevation of the apartment block at first-, second- and third-floor levels. I would be satisfied that the set-back from the northern boundary (at approximately 12m), when taken together with the height of the boundary hedge and the lower level of the housing estate, would be sufficient to ensure that there will be no significant overlooking of private rear gardens of houses in Mount Auburn Estate. The 1st Party appeal submission introduced louvered screens to the northern elevation of five balconies and to a further two third-floor roof terraces (one communal, with a hot-tub) – to obviate overlooking of Mount Auburn estate. I would consider that the louvered screens to the five balconies are unnecessary. The separation distance from the boundary, the height of the hedge, the lower level of houses in Mount Auburn estate, and the fact that the apartment building is addressing roofs of houses and front gardens at this location, should obviate the need for such screens. The louvered screens to the two terrace areas on the northern elevation should remain.

7.3. Daylight & Sunlight

- 7.3.1. The application was accompanied by a Daylight & Sunlight Assessment Report. This was supplemented by way of 1st Party appeal submission, to deal with lighting to the basement apartment in 'Mount Auburn'. The planning authority had expressed reservations in relation to lighting to this apartment. Revised proposals included excavation of lighting areas to the front of the house, widening of window/door opens and reconfiguration of the interior. As the basement of this house is already in residential use, I would consider most of these interventions to be excessive. Notwithstanding this, the alterations would certainly improve levels of daylight and sunlight to the basement apartment.
- 7.3.2. I have elsewhere in this report commented on the 1st Party suggestion of introducing louvered screens to five apartments – to prevent overlooking between windows in the new apartment block and the old house. The affected five apartments would suffer a significant loss of daylight and sunlight as a result of the introduction of these screens – something which has not been addressed in any revised Daylight &

Sunlight analysis. The removal of one apartment at third-floor level would result in an improvement of daylight and sunlight penetrating to the two apartments immediately adjacent, on the third floor.

- 7.3.3. The impact of the scheme, in terms of daylight, on adjoining properties ('Knockaderry' to the southeast; 2 Mount Auburn to the west; 3 Mount Auburn to the west; 4-7 Mount Auburn to the northwest; 11-17 Mount Auburn to the north; 19 Mount Auburn to the north; 20 Mount Auburn to the north) was assessed for Vertical Sky Component (daylight) – for the baseline, and with the apartment block in place. Each window was assigned a number. The impact on 'Mount Auburn Mews' has not been considered. In order for a proposed development to have a noticeable effect on the VSC of an existing window, the value needs to both drop below the stated target value of 27% and be less than 0.8 times the baseline value. The results are presented in section 5.1 of the report. Whilst the development would have a small impact on daylight on some of the windows assessed, the ratio of proposed VSC to baseline VSC never falls below 0.93 (for window 17a Mount Auburn), and so the impact of the development is deemed to be acceptable.
- 7.3.4. The impact on Annual Probable Sunlight Hours (APSH) was calculated for 4-7 Mount Auburn; 11-17 Mount Auburn; 19 Mount Auburn; 20 Mount Auburn. Windows within each of these houses were assigned a number. The impact on 'Mount Auburn Mews' has not been considered. In order for a proposed development to have a noticeable effect on the APSH of an existing window, the value needs to both drop below the stated target value of 25% and be less than 0.8 times the baseline value, and it has to have a reduction in sunlight received over the whole rear of greater than 4% of APSH. The results are presented in section 5.2 of the report. Whilst the development would have a small impact on sunlight on some of the windows assessed, the ratio of proposed APSH to baseline APSH never fell below 0.92 (for windows 15a & 17a Mount Auburn); and so the impact of the development is deemed to be acceptable. The impact on Annual Probable Winter Sunshine (APWS) was, predictably, more severe. This is not surprising in a suburban setting in latitudes such as this.
- 7.3.5. The impact on nearby gardens was assessed for 'Mount Auburn Mews' (mistakenly referred to in the study as 2 Mount Auburn) and numbers 19 & 20 Mount Auburn. Results are presented at section 5.3. The impact on the garden of 'Mount Auburn

Mews' was stated to be the most severe. It is difficult to see how this could be, as the proposed four-storey apartment block is east of this garden, at a setback of some 20m, with the two-storey 'Mount Auburn Mews' itself intervening. The back gardens of no.s 19 & 20 Mount Auburn are much more likely to be impacted by a four-storey apartment block, positioned due south. And yet, these gardens are indicated as hardly being impacted at all. These gardens are at a lower level and are already considerably overshadowed by the high griselinia hedge and retaining wall on the northern boundary of the appeal site.

7.3.6. The report includes a shadow study for 21st March, June and December. This shadow study includes the high griselinia hedge on the western and northern boundaries of the appeal site. It does not include any of the mature trees on the site. Of more significance, it does not include the large, mature Monterey cypress (evergreen), located within the curtilage of 'Mount Auburn Mews' (which is located just to the northeast of the front of 2 Mount Auburn. On 21st March/September, the new block will cast morning shadow onto the open space area within Mount Auburn and on 20 Mount Auburn. The impacts created on 21st December and 21st June are not significant arising from the height of the sun in the sky on these dates and the shadows cast on 21st December.

7.3.7. The BRE Guidelines are not referenced in the Apartment Guidelines 2022, and do not have a statutory basis. BRE target values for kitchens (2%), living-rooms (1.5%) and bedrooms (1%) in terms of Average Daylight Factor (ADF) are noted. However, where kitchens and living-rooms are one (as in the case of apartments within the new block) – the recommendation is for the higher 2%, rather than the lower 1.5% target. However, the applicant argues for the lower 1.5%, as the higher 2.0% would require redesign and loss of balconies in most instances. I understand the difficulties encountered in trying to design an apartment building, but poorly-lit kitchen areas should not be accepted as collateral damage. These apartments are targeted at an older age cohort, where occupants are more likely to be spending more time in apartments and where eyesight might not be so good as in a younger age cohort.

7.4. Access & Parking

- 7.4.1. The proposed access to the site is to remain the same. The entrance gates are to be widened to provide for two-way traffic and a new dedicated pathway. The gate width will be increased from 3.0m to 7.0m, by relocating the southern stone pier further to the south. The pedestrian access to the site will link up with an existing 1.3m wide footpath on Killiney Hill Road. Sight distance in either direction at the existing gate is good. The Transportation Planning section of DL-RCC had no issue in relation to safety at the access – apart from the need for a pedestrian pathway (which has been addressed in the 1st Party appeal submission).
- 7.4.2. The Development Plan identifies the site as falling within Zone 3 for car-parking purposes – wherein one parking space per apartment and one additional visitor parking space per ten apartments, is required. This would result in a requirement for 31 car-parking spaces for the development of 28 units (as suggested in the 1st Party appeal). This figure does not take account of any necessity for staff car-parking for a facility such as this one. Only 13 car-parking spaces are provided within the development. This amount is insufficient – and adverted to in the report of the Transportation Planning Division of DL-RCC. Section 12.4.5.2 of the Plan outlines reasons (13 bullet points) why the planning authority might deviate from the Development Plan standards for car-parking set out in Table 12.5. The proposed development does not accord with most of the bullet-point reasons for reducing on-site parking. The site is an elevated one with very few services located within easy reach. There is a café within Killiney Hill Park on the opposite side of the road, and it is a short walk to the Killiney Castle Hotel to the north. Both churches beside the site were locked on the date of site inspection. There is an hourly bus service on Killiney Hill Road, which cannot be considered a frequent service. Walking distances to Dalkey and Killiney DART stations (which light rail service is considered a quality public transport service) are stated to be 17 and 20 minutes respectively. The DART stations and Dalkey village (where most services are located) are at a significantly lower elevation than the appeal site. The application is accompanied by a Mobility Management Plan. Notwithstanding proposals for bicycle use, club car-sharing and shuttle service provision for residents, I would be concerned that residents would need private cars. This is not a nursing home – and residents are expected to be active and, therefore, mobile and travelling. Insufficient on site-parking would lead to

over-spill parking onto surrounding roads. There is no good reason why parking standards for this development should be lowered, notwithstanding the contention of the applicant that the scheme warrants a different approach to parking calculations. The development is targeted at an older age cohort, whose mobility might require the use of a car on a more frequent basis, notwithstanding claims that groceries can be delivered to the site. Supermarket deliveries are available to nearly every residential unit throughout the country. Permission should be refused for lack of sufficient on-site car-parking.

7.4.3. Bicycle parking facilities, in accordance with the Development Plan standards, have been provided. The site is an elevated one relative to services in Dalkey village and DART stations. The steepness of the hill approaches to this site would provide a challenge for the fittest of cyclists – notwithstanding that electric bicycles may be used. There are no bicycle lanes in the area. The narrowness of the roads in this part of Killiney/Dalkey renders cycling less attractive. The extensive cycling infrastructure provided within the site is likely to be little used – even by active residents.

7.5. **Water Supply, Drainage and Flooding**

7.5.1. Water Supply

Water supply to the development is from an existing 300mm diameter ductile iron main in Killiney Hill Road. Uisce Éireann has indicated that there is no objection to the proposal.

7.5.2. Foul Waste

There is an 100mm-diameter, private foul sewer traversing the site from south to northeast, which is to be decommissioned. A CCTV survey of this sewer showed it to be blocked somewhere within the site. The sewer, running on to the rear of 18-20 Mount Auburn estate will not be impacted – being downstream of the decommissioned sewer. It is not clear from drawings submitted, where foul waste from 'Mount Auburn' and 'Mount Auburn Mews', discharges at present. The decommissioned sewer will be replaced with a 150mm-diameter foul sewer, which will connect to an existing manhole in the Mount Auburn housing estate some way to the north. This will involve excavation within roads and public open space within the

adjoining housing development – a run of approximately 90 linear metres. The line of the route runs through public open space, at precisely the point where there are 3 no. semi-mature hornbeam trees. Excavation for the pipeline would necessitate the removal of these trees. This is unacceptable on visual amenity grounds. Uisce Éireann has indicated that there is no objection to the proposal.

7.5.3. Surface Water

There is an 150mm-diameter, private surface water sewer traversing the site from south to northeast, which is to be decommissioned. A CCTV survey of this sewer showed it to be blocked somewhere within the site. The sewer running on to the rear of 18-20 Mount Auburn housing estate will not be impacted – being downstream of the decommissioned sewer. It is not clear from drawings submitted, where surface water from ‘Mount Auburn’ and ‘Mount Auburn Mews’, discharges at present. The decommissioned sewer will be replaced with a 150mm diameter surface water sewer, which will connect to an existing manhole in the Mount Auburn estate some way to the north. This will involve excavation within roads and public open space within the adjoining housing development – a run of approximately 90 linear metres. The line of the route runs through public open space, at precisely the point where there are 3 no. semi-mature hornbeam trees. Excavation for the pipeline would necessitate the removal of these trees. This is unacceptable on visual amenity grounds.

The original proposal provided for a surface water soakway of 70 cubic metres, in front of ‘Mount Auburn’ – with ultimate discharge to Mount Auburn estate to the north. Infiltration tests carried out (and submitted with the appeal) indicate a very low rate for this site. The 1st Party appeal documentation suggested that the soakway be replaced with a gravel area beneath the permeable paving – ultimately connected to the surface water sewer within Mount Auburn estate, by a 50mm-diameter overflow pipe.

The Drainage Division of DL-RCC had a number of concerns in relation to drainage, both foul and surface water. The appeal submission made changes to the surface water handling regime – indicating areas for permeable paving. Green roof areas of 255sq.m and 108sq.m add up to 60% of the total roof area – in line with Development Plan policy. The response of Dún Laoghaire-Rathdown Co. Council to

the ground of appeal expressed dissatisfaction with matters being left for compliance, which should have been dealt with by way of additional information: the appellant is of the same opinion. Notwithstanding the single reason for refusal, I would be concerned that drainage details for 'Mount Auburn' and 'Mount Auburn Mews' have not been clearly indicated, and the replacement of an attenuation tank with permeable paving may have impacts for residents of Mount Auburn estate. I have also referred to the new sewer runs within Mount Auburn estate necessitating the felling of semi-mature trees within an area of public open space – something which is not acceptable. Concerns relating to arrangements for drainage within this development should be included as a reason for refusal for this development.

7.5.4. Flooding

Flood Zone Map 4 of the Development Plan indicates that there are no flooding concerns in the vicinity of the site. This issue is addressed in the 'Engineering Infrastructure Report' submitted with the application; and amended by way of appeal submission to the Board. I note that planning permission has previously been granted for an apartment building on this site. The OPW Flood Hazard Mapping service indicates no flooding events at this site, or in the immediate area. There is no evidence of flood pathways through the site. There is no risk to this site from tidal, fluvial, pluvial, groundwater or infrastructure (existing man-made drains). The site is located within Flood Zone C. SuDS measures introduced on the site should prevent downhill flooding of adjacent property. Downhill, the site is bounded by public roads and pathways. I would be satisfied that the proposed development will not result in on-site flooding or downhill flooding of adjoining property.

7.6. **Other Issues**

7.6.1. Development Contributions & Bond

Because permission was refused, there is no indication of the amount required of the developer, by way of development contribution or bond. If the Board is minded to grant permission, a condition should be attached requiring the developer to pay a development contribution in accordance with the scheme in place for the Council. Section 12.8.3 of the Plan refers to a 15% requirement for public open space within new residential developments. There is no provision of public open space within this

development. Section 12.8.8 of the Plan refers to financial contributions *in lieu* of provision of on-site public open space or a contribution towards improvements in the public realm. It would be appropriate to require the applicant to pay a development contribution *in lieu* of the on-site provision of public open space, in the event that the Board is minded to grant planning permission. This is referenced in the Planner's Report for DL-RCC. A bond condition should be attached, for any damage to public roads/open space during the construction phase.

7.6.2. Signage

No proposals have been indicated of any signage at the entrance.

7.6.3. Energy

The application was accompanied by an Energy & Sustainability Statement. Demolition proposed is minimal, and 'Mount Auburn' is to be repurposed – which constitutes a good use of an existing residential building. Energy minimisation is to occur through use of heat pumps, photovoltaic panels on the roof of the new apartment building, insulation, orientation of windows to maximise solar gain, LED external lighting systems and heat recovery systems for air-handling units. Plant is located at basement and roof level. Plant at roof level will be screened from view by a 1.25m high brick wall. The proposed development is acceptable in terms of energy-efficiency.

7.6.4. External Lighting

The application was accompanied by an 'External Lighting Report'. A report of 29th March 2022, from the Public Lighting section of DL-RCC, indicated that bollards and low-level mounted wall lighting are not recommended. Whilst lighting levels are higher than for a residential development, proposals are consistent with this type of development. It can be taken, therefore, that the external lighting proposed for this development is acceptable to the planning authority.

7.6.5. Social & Affordable Housing

There is correspondence on the file in relation to compliance with Part V of the Act. Reference is made to the provision of two units off-site. In the event that permission is granted by the Board, a condition should be attached requiring compliance with Part V of the Act.

7.6.6. Construction & Demolition Waste

The 'Engineering Infrastructure Report', submitted with the appeal, indicates that 3 no. rotary cores and 3 no. trial holes were opened on the site. I note that all are outside the footprint of the new apartment block. The rotary cores revealed gravelly clay to depths of 2.0m, 3.2m and 3.6m; with granite bedrock beneath. The trial pits indicated fill and gravelly-clay to depths of 2.4m, 2.5m and 3.0m. There was infiltration of groundwater in all rotary cores – rising to 2.1m below ground level in RC02. There was no evidence of groundwater in any of the trial pits. There is no indication as to when the excavations were undertaken. Percolation tests are dated 25th November 2021 – and the report itself dated January 2022. As the planning application was lodged on 21st March 2022, it is not clear why the Report on Site Investigation did not accompany the documentation submitted to the planning authority; and why it is now being presented for the consideration of the Board. It would appear that no rock will have to be excavated.

The appeal documentation included a 'Construction & Demolition Waste Management Plan' – dated 2nd June 2022. Figure 5, outlining the percentage breakdown in waste types on a typical building site is included (for site clearance). It is estimated that 1,100 cubic metres of soil and subsoil will have to be excavated and removed from the site. Figure 6 breaks down the waste arisings for the proposed construction; and gives an estimation of the amounts to be reused, recycled and disposed. All waste will be handled by approved waste contractors – to be recycled or disposed of, as required. For the operational phase of development, a bin store is provided, adjacent to the entrance gates. The application is accompanied by a report on 'Clinical & Non-Clinical Waste Management. This relates to the operational phase of the development. The report is general in nature; and does not give any breakdown of estimated waste arisings. The Board has a standard condition relating to C&D waste, which should be attached to any grant of permission which might issue. I do not consider that a condition relating to operational waste is required in this instance.

7.6.7. Construction Hours

In order to protect the amenities of surrounding residents, it would be appropriate to attach a condition to any grant of permission to issue from the Board; restricting

construction hours to 0700-1900 Monday to Friday, 0800-1400 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.

7.6.8. Construction Management

The application was accompanied by a Construction Management Plan. A Construction Management Plan submitted with the 1st Party appeal, modified the original document slightly. The Transportation Planning section of DL-RCC had expressed some reservations in relation to access and parking for construction traffic. The revised Construction Management Plan indicated, at p.9, that construction traffic would not be allowed to wait on Killiney Hill Road and, at p.12, that limited car-parking for construction workers would be available at the site compound; with workers encouraged to use public transport or to walk or bicycle to the site. Permission has previously been granted for an apartment development on this site. Road conditions in the area have not changed significantly since that grant of permission. The construction phase would be of limited duration. Issues relating to noise, dust and vibration could be dealt with by way of details, to be provided in a Construction and Environmental Management Plan – to be submitted for the written agreement of the planning authority, prior to commencement of any development on the site.

7.6.9. Impact on Protected Structures

St. Stephen's RC church, which immediately abuts the appeal site is a Protected Structure. This church, dating to the 1980's, presents two, high walls to the garden curtilage of 'Mount Auburn'. The design of the church is such that the building is inward-looking onto a courtyard – although there are high-level windows in the western elevation. I have elsewhere noted that the church site would once have formed part of the garden curtilage of 'Mount Auburn'. Planning permission has previously been granted for a three- & four-storey apartment building on the current appeal site. The proposed four-storey block is located just 0.8m from the northern wall of the church. There are no windows within the southern elevation of the apartment block (the elevation addressing the church). A retaining wall is to be constructed for the undercroft/basement plant-room at this location. The first and

second floor apartments are not much higher than the roof of the existing church. The 1st Party appeal submission suggested alterations to the apartment block in the vicinity of the church – to remove one apartment at third-floor level – closest to the church. This allowed for the opening of windows in the southern elevation of two apartments at third-floor level, and to provide a window for a communal access corridor. The windows at this level will be set back 7.5m from the boundary with the church. I would be satisfied that this re-arrangement at 3rd-floor level will not result in any detrimental impact on the setting of the church. However, I would have concern in relation to the proximity of windows within first and second floor apartments adjacent to the forecourt of this church. Kitchen/living area windows are located just 3.5m from the church boundary and balcony areas for the two apartments are within 3.0m of the church boundary. The positioning of these two apartments would negatively impact on the setting of the Protected Structure and would seriously impact on the future development potential of the church site. Permission should be refused for this reason.

Holy Trinity Church of Ireland church (a Protected Structure) is located some 47m to the northeast of proposed apartment block, on the other side of Killiney Hill Road. It will not be impacted in any way by the proposed development.

7.6.10. Ecology

The application is accompanied by an Ecological Impact Statement. The report notes that no bat surveys were undertaken, owing to the time of year at which the site survey was undertaken; bat surveys being typically carried out from April to September. The report notes that the buildings and mature trees on the site may have bat-roost potential, and that a number of bat species have been recorded in the vicinity. Woodland, within Killiney Hill Park, is located on the opposite side of the road. Depending on the time of year at which any building work might commence, and vegetation removed, would render it appropriate that a condition be attached to any grant of permission, relating to survey for bat activity on the site; and the appropriate measures which should be taken, should bat activity be recorded. All the buildings proposed for demolition and any trees proposed for felling, should be examined by a bat specialist for evidence of bats, prior to demolition/felling; including an examination of internal roof features. If required, a National Parks & Wildlife Service (NPWS) derogation licence should be obtained.

7.6.11. Archaeology

The site is located within a built-up suburban area. There are no recorded monuments either within or immediately abutting the site. At 0.3ha, the site cannot be considered a large one. For this reason, I would not recommend archaeological monitoring of soil-stripping in this instance.

8.0 **Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

9.0 **Reasons and Considerations**

1. The current development plan for the area identifies the site as falling within Zone 3 for car-parking purposes – wherein one parking space per apartment and one additional visitor parking space per ten apartments, is required. The quantum of parking provided falls far short of the Plan requirement. The site is not located proximate to quality public transport services. Notwithstanding proposals for bicycle use, club car-sharing and shuttle service provision for residents, there is concern that the development would lead to over-spill of car-parking onto surrounding roads, which would seriously injure the amenities of the area.
2. The proximity of the proposed apartment block to the forecourt of St. Stephen's church, with windows and balconies located within 3.5m and 3.0m respectively of the common boundary, would impact negatively on the setting of this Protected Structure, would result in serious overlooking of adjoining property and would, thereby, seriously injure the amenities and depreciate the value of property in the vicinity.
3. The inadequate separation distance between the eastern elevation of 'Mount Auburn' and five apartments within the new apartment block (as revised by way of 1st Party appeal submission), would, notwithstanding the proposed introduction of louvred screens along part of the balconies of each of the aforesaid five apartments, result in overlooking and loss of privacy, which

would seriously injure the amenities of future residents of these units. The introduction of the louvred screens would have a detrimental impact on the levels of daylight and sunlight in the five affected apartments within the new block, which would seriously injure the amenities of future residents of these units.

4. The indicated new sewers running through the Mount Auburn housing estate to the north, would necessitate the removal of 3 semi-mature deciduous trees within a public open space area, which would seriously injure the amenities of residents of the adjoining estate.
5. Drawings submitted with the application do not indicate the drainage arrangements currently in place for 'Mount Auburn' and 'Mount Auburn Mews'. In the absence of such information, the proposed development could be prejudicial to public health.
6. The proposed felling of so many mature trees on the site would run counter to the Development Plan objective to protect and preserve trees on this site, and would, therefore, be detrimental to the visual amenities of the area.

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

Michael Dillon,
Planning Inspectorate

10th July 2023.