



An
Bord
Pleanála

Inspector's Report

ABP-314004-22

Development

3-4 storey nursing home building, the protection and preservation of Newbrook House (a Protected Structure) new vehicular access and pedestrian access off Taylors Lane, communal open space and facilities and 18 no. parking spaces. 5 no. three-storey dwellings with associated parking landscaping and services.

Location

Lands to the south of Taylor's Lane, within the curtilage of Newbrook House, a Protected Structure, Taylor's Lane, Ballyboden, Dublin 16

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD21A/0232

Applicant(s)

Luxcare Limited

Type of Application

Permission

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

Third Party

| | |
|--------------------------------|-----------------------------|
| Appellant(s) | Ballyboden Tidy Towns Group |
| Observer(s) | None |
| Date of Site Inspection | 2 nd June 2023 |
| Inspector | Elaine Power |

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1.0 Site Location and Description

- 1.1. The subject site is located on Taylor's Lane in Ballyboden, c. 7.5 km south of Dublin City centre. The surrounding area is suburban in nature. The site is bound to the north by Taylor's Lane to the south and west by the rear gardens of residential properties and to the east by a petrol station.
- 1.2. The site is irregular in shape with a stated area of 0.63ha. It is currently accommodates a vacant 2-storey residential dwelling 'Newbrook House' which is a protected structure (RPS 300) and a number of vacant and derelict buildings and structures. The site slopes upwards away from Taylors Lane with a level difference of c. 3m between the sites northern boundary and southern boundary. The site is overgrown with mature trees located in the south west corner of the site. The site also includes the former millrace drainage channel in the south west portion of the site. This drainage channel is culverted under part of the site.
- 1.3. There is an existing vehicular access and a separate pedestrian gate to the site from Taylors Lane. The sites boundary with Taylors Lane comprises a c. 1.4m high stone wall with railing above and a vehicular entrance. The western boundary comprises a c. 3m high stone wall. The southern and eastern boundary comprise blockwork walls of varying heights.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of existing derelict sheds and structures on the site and the construction of a 3-4 storey nursing home building incorporating Newbrook House (protected structure) and 5 no. three-storey dwellings with associated parking landscaping and services. The scheme incorporates communal open space and facilities open to the public such as hair salon, function suite and cinema. The works include new vehicular access and pedestrian access from Taylors Lane, 18 no. parking spaces and 24 cycle parking spaces.
- 2.2. Following receipt of Further Information the number of dwellings on site was reduced to 4 no.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 26 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Planners Report 14th October 2021

Initial Area Planners Report raised some concerns regarding the proposed development and recommended further information be requested with regard to 11 no. items. These items are summarised below.

1. *Conservation*

- A Schedule of Works and Method Statement. The replacement of the original windows was deemed unacceptable.
- A Safety Statement.
- Details of the proposed glazed link between the protected structure and the proposed nursing home.
- Details of the proposed front glazed entrance to the protected structure.
- An Architectural Impact Assessment.
- A photomontage showing the front elevation of the protected structure alongside the proposed scheme.
- A first floor level floor plan of the protected structure.

2. *Transportation*

- There are serious reservations regarding traffic safety on Taylors Lane by reason of the provision of 2 no. entrances. The Roads Section recommends the omission of 1 no. access. The applicant should address these concerns and demonstrate that the two entrance approach would not create a traffic hazard.

3. *Design Approach*

There are concerns regarding the design of the proposed nursing home. The following information should be submitted.

- Additional CGI's and contextual elevation of the site along Taylors Lane. Revise the front building line, boundary position and design of the scheme fronting onto Taylors Lane in order to provide an increase public footpath and reduce the visual prominence of the front of the building.
- There are concerns regarding the access of the public uses (hairdressers, function suite and cinema) through the Nursing Home. Clarify whether these uses are open to the public and if so how they would appropriately operate. Depending on the uses the applicant should address car parking and cycle parking requirements.
- Confirm that the nursing home complies with the relevant space requirements for nursing homes.

4. *Residential Use*

There are concerns regarding the design of the 5 no. dwellings. The following information should be submitted.

- The blank elevation to the nursing home is not visually acceptable. A dual fronted house should be provided. A revised design of this elevation should be submitted.
- Details of the size of the rear gardens, the boundary treatments between these spaces and whether sufficient internal storage can be provided should be submitted.
- A greater set back between the proposed dwellings and the existing dwellings at Palmer Park. A minimum separation distance of 22m is required.
- Clarification on the tenure of the houses and how they relate to the nursing home.

5. *Drawings*

- Cross Sections to include the adjacent dwellings.

- A more comprehensive site layout

6. *Landscaping and Open Space*

- The provision of 10% of public open space within the site. Clearly identify private, semi-private and public open space.
- The landscaping plan should be revised to reflect the recommendations and mitigation measures outlined in the Bat Survey Report and the Ecological Impact Assessment.
- A comprehensive SUDS Management Plan

7. *Roads Department*

- Revised Layout showing detailed design of the vehicular access points at the north west corner of the site onto Taylors Lane including swept path analysis showing how emergency vehicles can access the site.
- Increase the car parking spaces up to 35 no.
- Revised layout showing a redesign of the north western access as the main access.
- Information regarding waste collection and bin storage.
- Revised layout showing covered / sheltered bike storage.
- Details of retaining walls.

8. *Water Services Section*

Insufficient information has been submitted regarding the watercourse (Mill Race).

The following information should be submitted: -

- A report showing a hydrological assessment and flow details in dry and wet periods.
- A drawing showing what areas upstream are draining to the Mill Race passing through the site.
- A minimum 10m distance between the proposed development and the channel edge. A culverted section would require a set back of 6m.

- Right angle bends of diverted surface water channel should be removed and replaced with 45 degree bends.
- A report showing surface water retention calculations.
- A cross section of area between the proposed building and the proposed surface water channel.
- A drawing showing the location of surface water attenuation systems and their surface water attenuation capacity.

9. *Uisce Eireann*

- Details of a pre-connection enquiry with Uisce Eireann with regard to water supply and foul water connections.

10. *Ownership*

- Clarify the ownership of the site and consent to submit the application.

11. *Demolition Works*

- Plans and elevations of all buildings to be demolished. The development description does not specify the demolition of existing buildings. Statutory notices should be revised and advertised to include demolition of buildings.

In response to Item 11 and in accordance with Article 35(1)(a) revised public notices were published on the 15th January 2022 and a new site notice was erected on the 17th January 2021. The revised public notices were received by the planning authority on the 19th January 2022.

Planners Report dated 15th February.

The planner's report on the Further Information response considered that Clarification of Further Information be requested with regard to 4 no. items. These items are summarised below.

1. *Part V*

- The no. of houses has been reduced from 5 no. to 4 no. There is no granted or current application for a Section 97 Certificate of Exemption for the site. This should be addressed.

2. *Landscaping and Open Space*

- It is unclear if the development would reach the relevant open space requirements.

3. *Roads Department*

The Roads Department requests clarification of the following: -

- A revised layout showing unobstructed views from the north western access. The Architectural Conservation Officer has advised that the existing wall is of historic significance. If a small extent of the wall needs to be lowered, a low stone boundary wall shall be left to delineate the property. Full details of the amendments to the boundary wall are to be provided.
- A revised car parking layout showing minimum 6m wide circulation aisle.

4. *Water Services*

Water Services requests clarification of the following: -

- All catchment areas that flow into the former Millrace have not been taken into consideration for attenuation calculations.
- Submit a report to show surface water flows through the former Millrace channel for both wet and dry periods.
- Submit a report to show the surface water attenuation and greenfield run off rate calculations for each catchment area, areas of buildings, green roofs, roads, pathways, permeable paving and grass. Show what attenuation is required and what is provided.
- Show what SuDS are proposed.

Planners Report 8th June 2022

Following receipt of clarification of further information, the Area Planner's report concludes that having regard to the documentation received, the Planning Authority, considers that the response to the request for clarification of additional information have been satisfactorily addressed. It was recommended that permission be granted subject to 26 no. standard conditions.

3.2.2. **Other Technical Reports**

Housing Department: Report of the 29th September 2021 recommends that a Part V condition be attached to any grant of permission.

Architectural Conservation Officer: Report dated 22nd September 2022 recommended that further information be sought regarding the potential impact of the development on the protected structure. The planners report notes that a report in response to the further information request was received and that Architectural Conservation Officer considered the response to be satisfactory. However, the report of the Architectural Conservation Officer does not appear to be on the file.

Heritage Officer: The area planners report notes a verbal report was received on the 6th October 2021.

Public Realm Planning: Report dated 14th September 2021 raised concerns regarding the quantum, quality, functionality and amenity value of public open space. The report recommends that 6 no. items of further information be sought from the applicant. The report (dated 25th May 2022) in response to further information raised no objection in principle subject to 10 no. conditions.

Roads Department: Report dated 9th September 2021 recommended that that the proposed scheme be refused permission for 4 no. reasons relating to (1) the vehicular access arrangements onto Taylor's Lane would endanger public safety by reason of a traffic hazard (2) the significant under provision of car parking, (3) width of the footpath along Taylors Lane and (4) access arrangements for emergency vehicles. The report also set out 7 no. items of further information that could be requested and 13 no. conditions that could be attached to any grant of permission. The report (dated 11th January 2022) in response to further information considers that the creation of an additional access onto Taylors Lane could lead to a traffic hazard. The report also sets out 6 no. items of clarification of further information. The report (dated 21st July 2022) in response to clarification of further information raised no objection to the proposed development subject to 11 no. conditions.

Water Services: Report dated 3rd September 2021 raised no objection to flood risk and requested that 8 no. items further information be sought regarding the watercourse on site and surface water drainage. The report (dated 9th February 2022) in response to the submission of further information recommended that clarification of further

information be sought. The report (dated 31st May 2022) in response to clarification of further information raised no objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. Inland Fisheries Ireland, An Taisce and Uisce Eireann made submissions to the planning authority. A summary of the comments received are summarised below:

3.3.2. *Inland Fisheries Ireland*: The submission dated the 11th October 2021 is summarised below.

- A Construction Environmental Management Plan should identify potential impacts and mitigation measures. The existing watercourse is of limited fisheries potential, however, the proposal to realign it could potentially cause significant silt pollution in the downstream catchment. Creation of the realigned channel must be completed in line with a detailed method statement with strict adherence to environmental controls.
- Invasive species should be contained and treated in accordance with an Invasive Species Management Plan.
- Ground preparation and associated construction works, have significant potential to cause the release of sediments and various pollutants into the surrounding watercourse. Pollution of the watercourse from poor on-site construction practices could have a significant negative impact on the fauna and flora of the Dodder catchment. A comprehensive and integrated approach for achieving river protection during construction and operation should be planned and implemented.
- It is essential that local infrastructural capacity is available to cope with increased foul and storm water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. Wastewater from the development will discharge to Ringsend WWTP, which is currently overloaded. While additional capacity is under construction any additional loading to the current plant is premature until the upgrade is commissioned.

3.3.3. *An Taisce*: Report dated 21st September 2021 is summarised below.

- The Conservation Report does not provide an adequate assessment of the overall effect of the development on the protected structure.
- The floor plan which shows the layout of Newbrook House does not appear to relate to the survey of the existing house layout drawing.
- The future of the stairs and the whole of the first floor is unclear, as it is not shown on the floor plan of the nursing home.
- Concerns regarding the use of the space to the front of the protected structure as a car park. It is noted that there is no CGI of the front of the house.

3.3.4. The report dated 28th January 2022 raises concerns that the open space to the front of the protected structure is still almost entirely occupied by a car park. It is also noted that it appears that no effort has been made to preserve the remains of the old mill building and incorporate it into the scheme, as this is part of the heritage of Ballyboden Village.

3.3.5. *Uisce Eireann*: The report dated 21st September 2021 requests that the applicant submit a pre-connection enquiry and obtain a letter for confirmation of feasibility for both water and wastewater. The report dated 2nd June 2022 raised no objection subject to standard conditions.

3.4. **Third Party Observations**

3.4.1. 5 no. third party observations were received by the planning authority. No additional submissions were received following the publication of revised notices. The concerns raised are similar to those of the appeal.

4.0 **Planning History**

Subject Site

None

Surrounding Sites

No relevant planning history

5.0 Policy Context

5.1. South Dublin County Development Plan 2022 - 2028

The subject site is Zoned RES with the associated land use objective to provide and / or improve residential amenity.

The site contains a protected structure ' Newbrook House' RPS 300.

The following policies are considered relevant:

Policy H3: Housing for All: Support the provision of accommodation for older people and people with disabilities and / or mental health issues within established residential and mixed use areas offering a choice and mix of accommodation types within their communities and at locations that are proximate to services and amenities.

Section 12.6.5 Nursing Homes / Assisted Living Accommodation sets out criteria for assessing nursing home or assisted living accommodation: -

- Such facilities will be resisted in remote locations outside urban areas unless in proximity to high quality public transport links and provision of good footpath links;
- Facilities should be located in established neighbourhoods / residential areas well served by community infrastructure, and amenities. Future residents should expect reasonable access to local services such as shops and community facilities;
- The potential impact on residential amenities of adjoining properties should be considered;
- A reduction in the open space provision, subject to it meeting the needs of residents in terms of quantity and quality, may be considered where the quality of the space is of exceptional standard designed to meet the needs of residents;
- Adequate provision should be made for parking facilities;
- The size and scale of the proposal must be appropriate to the area.

Policy NCBH19: Protected Structures: Conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any

proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

The following are also considered relevant:

Policy QDP8: High Quality Design – Building Height and Density Guide (BHDG); Policy QDP9: High Quality Design - Building Height and Density; Policy QDP10: Mix of Dwelling Types; Policy QDP11: Materials, Colours and Textures; Policy H9: Private and Semi-Private Open Space; Policy QDP1: Successful and Sustainable Neighbourhoods; Policy QDP2: Overarching - Successful and Sustainable Neighbourhoods; Policy QDP3: Neighbourhood Context; Policy QDP4: Healthy Placemaking; Policy QDP7: High Quality Design – Development General; Policy NCBH16: Industrial Heritage; GI 5 Objective 5: Climate Resilience; H9 Objective 1: Private and Semi-Private Open Space; and Section 12.3.7 Protected Structures is also considered relevant.

5.2. ***National Planning Framework***

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.3. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, 2009
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

5.4. **Other Relevant Guidance:**

- National Standards for Residential Care Settings for Older People in Ireland, updated 2020

5.5. **Natural Heritage Designations**

The following Natura 2000 sites are within 15km of the subject site.

- South Dublin Bay and River Tolka SPA (004024) c. 7.2km north east of the subject site
- South Dublin Bay SAC (000210) c. 7.2km north east the subject site
- North Bull Island SPA (004006) c. 11.6km north east of the subject site.
- North Dublin Bay SAC (000206) c. 11.6km south east the subject site
- Rockabill to Dalkey Island SAC (003000) c. 13.3km east of the subject site.

- Dalkey Islands SPA (004172) c. 13km east of the subject site.
- Glenasmole Valley SAC (001209) c. 5.6k south west of the subject site
- Wicklow Mountains SAC (002122) c. 5.4km south of the subject site.
- Wicklow Mountains SPA (004040) c. 5km south of the subject site
- Knocksink Wood (000725) c. 9km south east of the subject site
- Ballyman Glen (000713) c. 11.5km south east of the subject site

5.6. EIA Screening

5.6.1. An Environmental Impact Assessment Screening Report was not submitted with the application.

5.6.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Item 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.6.3. It is proposed to demolish existing derelict sheds and structures on the site and construct a 3-4 storey nursing home building incorporating the refurbishment of Newbrook House (protected structure) and 4 no. three-storey dwellings on a site with a stated gross area of c. 0.63ha. The site is located in the urban area (other parts of a built up area). The site is, therefore, below the applicable threshold of 10ha. There are no excavation works proposed. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise

to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Irish Water and South Dublin County Council, upon which its effects would be marginal. An Appropriate Assessment Screening Report was submitted with the application which notes that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of the European Sites and that associated environmental impacts on these sites, by reason of loss of protected habitats and species, can, therefore, be ruled out.

- 5.6.4. It is noted that concerns were raised in the appeal regarding the failure to submit an EIA Screening Report. While this is acknowledged, I am satisfied that having regard to the information submitted by the applicant, having carrying out a site visit on the 2nd June 2023 and to the nature and limited scale of the proposed development and the absence of any connectivity to any 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. The planning authority also concluded in their assessment that there is no likelihood of significant effects on the environment arising from the proposed development. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal was received from Ballyboden Tidy Towns Group. Appendix A of the submission includes the original submission to South Dublin County Council. The concerns raised in the appeal are summarised below: -

Design Approach

- The proposed development by reason of its design, layout, size, height, mass and scale amounts to overdevelopment of the site, which includes a protected structure.

- The separation distances between the proposed scheme and existing dwellings are below 22m and is, therefore, contrary to Section 11.2.7 of the development plan.
- The design and layout would result in a substandard form of development for future residents of the dwellings and the nursing home.

Residential Amenity

- The proposed development would be visually dominant and would result in an adverse impact on the existing residential properties.
- The proposed development would result in overshadowing, overlooking and have an overbearing impact on adjacent properties.

Built Heritage

- The location of the car parking to the front of the protected structure would have a profound negative impact on the character and setting of Newbrook House.
- The scheme would have an overbearing and negative visual impact on the protected structure.

Transportation

- The access arrangements would result in a traffic hazard.
- The scheme would lead to haphazard and overspill car parking on the surrounding streets.
- Inadequate and poor provision of cycle parking

Ecology

- Loss of trees and hedgerows and biodiversity within the site.

EIA Screening

- Concerns regarding the failure to submit an EIA Screening Report.

AA Screening

- The AA Screening Report fails to identify the connection between the Wicklow Mountains and the watercourse on site. This draws into question the conclusion of the screening report.

Other Issues

- Serious risk of contamination as chemicals have not been removed from the site that are a legacy issue from being a builders providers.
- The original submission to the planning authority, attached as Appendix A to the appeal, considered that the application should be invalidated due to a number of inconsistencies and lack of information in the application form, drawings and documents submitted.

6.2. Applicant Response

- 6.2.1. The applicant submitted a detailed response to the third party appeal on the 3rd August 2022. It notes that the concerns in the appeal appear to relate to the original scheme submitted to the planning authority and not the scheme subsequently amended by way of further information. The response also includes a response from Panther Environmental Solutions to the concerns raised regarding AA Screening. The response to the appeal is summarised below:

Design Approach

- The form and scale of the proposed development at this infill, zoned site fully accords with national policy to increase density along public transport corridors.
- The proposed height and scale are fully compliant with government planning policy.
- The planning authority have not raised any concerns regarding overdevelopment of the site.
- The plot ratio and site coverage are lower than similar sites in the area.
- The quantum of development has been considered to ensure a positive relationship with Newbrook House.
- The proposed scheme has been designed to the standards set out in National Standards for Residential Care Settings for Older People in Ireland.
- Details of the demolition works proposed were submitted by way of further information.

- The site has the capacity to absorb the development without negatively impact on existing residents.
- The scheme would have a positive visual impact on Taylors Lane. It would be extensively landscaped and is a welcome addition to the streetscape.
- The height is similar to the adjoining 3-storey Kingston Court development.
- The revised proposal is for 4 no. dwellings, all of which have storage space and private open space which exceed development plan standards.

Residential Amenity

- A Noise Assessment is not a statutory requirement. The proposed development will be fully compliant with best practice standards during the construction and operational phase.
- The proposed development would not result in overlooking or have an overbearing impact on adjacent properties.

Built Heritage

- The protected structure has laid vacant and derelict for decades. This proposal has a real chance of bringing this protected structure back into beneficial use. This is a major planning gain.
- Detailed conservation drawings and documentation have been submitted with the application.
- The proposed scheme would not have a negative impact on the protected structure.

Water Services

- Details information regarding works to the Millrace and drainage proposals for the site have been submitted.

Transportation

- Sufficient parking and servicing have been provided within the site.
- Cycle parking is provided in excess of development plan standards.

Ecology

- There are no hedgerows on the site.

EIA Screening

- The proposed development is limited in scale and is sub-threshold for EIA. The proposal does not require to be screened for EIA.

AA Screening

- The proposed AA Screening was carried out in accordance with the provisions of the development plan.
- The Wicklow Mountains are upstream of the subject site.
- The proposed development was assessed for the potential impact on water quality of the Millrace and there would be no significant impact either upstream or downstream during the construction or operational phase.
- The Millrace was assessed for the potential to contain aquatic habitats and was classified as a drainage ditch, given the modified nature and vegetation. This watercourse would not support otter and is piped underground for large sections both upstream and downstream of the proposed development.
- The proposed development would not disturb any foraging otter in the wider area as otters would mainly be within rivers such as the Dodder, Owenadoher and Whitechurch Stream and are accustomed to urban noise in the area.

Other Issues

- *Statutory Notices:* The public notes were accepted by the planning authority during the planning application process.
- *Drawings:* All drawings are in accordance with the planning regulations and were accepted by the planning authority.
- *Application Form:* All information submitted on the application form was correct.
- *Typos:* The applicant acknowledges that there was a minor typo in the Ardpoint Report. It has no material bearing on the application.
- *Ownership:* The applicant has the full consent of the owners to make the planning application. A letter of consent was submitted with the application.

6.3. **Planning Authority Response**

The planning authority's response to the appeal confirms its decision and notes that the issues raised in the appeal have been covered in the planner's report.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. The main concerns in this appeal relate to the design approach, residential amenity built heritage, transportation and ecology. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Design Approach
- Open Space and Landscaping
- Residential Amenity
- Built Heritage
- Transportation
- Ecology
- Water Services - Drainage
- Land Contamination

7.2. ***Principle of Development***

- 7.2.1. The subject site is zoned RES with the associated land use objective to provide and / or improve residential amenity. The proposed residential uses are, therefore, permissible in principle.
- 7.2.2. Section 12.6.5 of the development plan states that nursing home facilities should be located in established neighbourhoods / residential areas well served by community infrastructure, and amenities. It further states that future residents should expect reasonable access to local services such as shops and community facilities. The subject site is located in the established urban area, in Ballyboden c. 7.5km south of Dublin city centre. It is bound to the east by a service station with associated retail shop. A row of neighbourhood shops are located on Taylors Lane, c. 250m west of the subject site. The site is also in close proximity to the suburban centres of Rathfarnham, Whitechurch, Ballyroan and Knocklyon with associated services and amenities. I am satisfied that the location of the scheme is in accordance with the provisions of Section 12.6.5 and Policy H3 Housing for All of the development plan which supports the provision of accommodation for older people within established residential and mixed use areas offering a choice and mix of accommodation types within their communities and at locations that are proximate to services and amenities.

7.3. ***Design Approach***

- 7.3.1. Concerns are raised in the appeal that the proposed development by reason of its design, layout, size, height, mass and scale amounts to overdevelopment of the site, which includes a protected structure. In the interest of clarity this appeal and my assessment relate to the design and layout submitted to the planning authority on the 19th January 2022 in response to the request for further information.
- 7.3.2. The scheme comprises 3 no. distinct elements, in this regard an 111 no. bed nursing home in a 3-4 storey building, the redevelopment of 'Newbrook House' (protected structure) and 4 no. 3-storey dwellings. The impact of the proposed scheme on Newbrook House are addressed in detail in Section 7.6 Built Heritage below while the design approach for the nursing home and 4 no. houses are assessed below.

Nursing Home

- 7.3.3. The proposed nursing home building is centrally located within the site and would connect via a glazed link to the restored protected structure. The proposed building ranges in height from 3-4 storeys with a hipped roof. Due to the topography of the site the 4 storey element of the building generally appears as 3 storeys over basement. The building is C-shaped with a central courtyard. The northern, southern and western elevations are c. elevations c. 45m in length.
- 7.3.4. The northern elevation is located a minimum of c. 5m from the sites boundary with Taylor Lane. The external finishes of this elevation comprise a white render at ground and first floor levels with a dark grey concrete fibre cement cladding above and a stone cladding. The variation in finished results in a vertical emphasis, which in my view breaks up the massing of the block. Having regard to the highly visible nature of this elevation the high quality finished is welcomed.
- 7.3.5. The stone cladding finish is repeated on the corners of the nursing home building. The vast majority of the southern and western elevations and the internal elevations which front onto the central courtyard are finished in render at ground and first floor levels with a dark grey concrete fibre cement cladding above. I have concerns regarding the extensive use of render which is not considered to be a high quality or durable material, particularly having regard to the proximity to the protected structure located to the west of the building and the location of the proposed open space along the watercourse to the south of the building. If permission is being contemplated it is recommended that a condition be attached that the final details of the proposed finishes be agreed with the planning authority.
- 7.3.6. The nursing home building accommodates 111 no. bedrooms with associated uses including dayrooms, dining rooms, quiet rooms and office uses at each level. The rooms do not include balconies or terraces, however, a communal dayroom on the first, second and third floor levels have been provided with a balcony on the western elevation. The basement level is provided at the southern elevation of the building and incorporates laundry, kitchen, changing rooms, cinema and storage. There are no bedrooms provided on the southern elevation at ground floor / basement level. Access to the nursing home building is proposed via the refurbished protected structure.

7.3.7. Third parties raised concerns that the design and layout would result in a substandard form of development for future residents of the nursing home. The development plan does not set out an standards for accommodation. However, Section 2.7 of the National Standards for Residential Care Settings for Older People in Ireland, updated 2020, sets out relevant standards. These include the following for new builds and extensions: -

- 80% of accommodation shall be single rooms;
- All bedrooms shall have 12.5sqm usable floor area;
- 4sqm of communal amenity space per resident; and
- En-suite facilities to be provided to all rooms, which are in addition to the minimum floor areas.

7.3.8. The information submitted indicates that all 111 no. rooms would be single rooms, including 8 no. wheelchair accessible rooms. The rooms have a minimum floor area of 16.1sqm which excludes the en-suite. The applicant states that 7.7sqm of communal amenity space has been provided per bedspace. The communal services and facilities within the scheme include day rooms, dining rooms provided at each floor and a cinema room and hair salon. The protected structure also includes a visitor café which would be accessible to future residents. I am satisfied that the internal layout is in accordance with the national standard and would result in a high level of amenity for future residents.

7.3.9. Concerns were raised by third parties regarding the visual impact of the scheme. It is noted that the existing adjacent residential properties (visual receptors) are more sensitive to change and that the value of that change is largely subjective. A Landscape and Visual Assessment was submitted with the application. It assessed the impact of the scheme from 4 no. short range views. I agree with the findings of the LVIA and consider that the one operational impact of the scheme would generally be not significant. It is acknowledged that the nursing home building and the protected structure would be highly visible when viewed directly from the site boundaries and adjacent residential properties. It is also accepted that the proposed height is marginally (1-2-storeys) taller than the existing adjacent buildings and would introduce new features in the skyline. However, I consider that the proposed height would not

significantly detract from the visual amenities of this urban area and would not be visually obtrusive. I am satisfied that due to the high-quality contemporary design of the scheme and the significant separation distances to residential properties that there would be no significant negative impact on existing visual amenity.

7.3.10. The development plan does not set out height limitations and there are no density guidelines for nursing homes. Policy H9 of the development plan aims to support varied building heights across residential and mixed use areas and H9 Objective 1 aims to encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity. The planning authority consider that the provision of a scheme up to 4-storeys in height is in accordance with the provisions of Policy H9 and represents a gradual change in height in proximity to the existing residential properties.

7.3.11. While it is my opinion that the proposed height is in accordance with Policy H9 it is also noted that Policy QDP8 aims to adhere to the requirements of the Building Height Guidelines Policy and QDP9 aims to apply a context driven approach to building heights. In addition, Appendix 10 of the development plan sets out the Building Height and Density Guide. Section 4 of the guide contains a detailed set of performance-based criteria for the assessment of developments of greater density and increased height. It is noted that the criteria are similar to that outlined in the Building Height Guidelines and the Urban Design Manual. Having regard to the concerns raised by the third party regarding the proposed height and scale of the scheme it is my view that it is appropriate to assess the scheme in accordance with the planning authority's Building Height Guide.

7.3.12. Section 5 of the guide sets out indicative development scenarios. With regard to small infill suburban sites it states that the height strategy would be considered in terms of the prevailing contextual height and amplification of height, relative to the prevailing context. The surrounding area is predominately 2-storeys in height. It is noted that there is a 3-storey element to the residential development in Kingston Court, which fronts onto Taylors Lane and is immediately adjacent to the subject site. While it is noted that the proposed scheme is marginally higher (1-2-storeys) than the surrounding low density 2-storey suburban housing I am satisfied that the scheme is in accordance with the provisions of the development plan. Notwithstanding this in the interest of

clarity the scheme is assessed against the criteria outlined in the Building Height Guidelines, which is reflected in Appendix 10 of the development plan.

7.3.13. Section 3 of the Building Height Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights are 2/3-storeys. The Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Taking each point in turn as detailed in this section 3.2 of the Guidelines with reference to the bullet points therein, I conclude:

Scale of Relevant city/town:

- Site is well served by public transport. There is an east and west bound Dublin Bus stop immediately adjacent to the site on the Taylors Lane. These stops are served by the no.15D, 61, 161 and 175. There are also north and south bound bus stops on Ballyboden Road, c. 500m from the subject site. They are also served by the no. 15D and 61 and in addition to the no. 15B. The 15B is a high capacity and high frequency route, operating every 10 min in the AM and PM peak periods.
- A Landscape and Visual Impact Assessment has been carried out as part of the application which indicates that that the proposed scheme successfully integrates into the surrounding area with regard to the sites topography and cultural context. I am satisfied that there will not be an unacceptable visual impact.
- Proposal makes a positive contribution to the streetscape, using appropriate massing, scale and height to achieve increased densities with sufficient variety. It responds to the scale of adjoining developments.

Scale of district/neighbourhood/street:

- Design has responded to its overall natural and built environment and makes a positive contribution with the incorporation of the ground floor / basement level into the existing topography of the site and the provision of areas of public open

space and high-quality public realm surrounding the existing watercourse on the subject site.

- It is not monolithic. There are varying uses, heights and scales.
- It enhances a sense of scale and enclosure having regard to the passive surveillance as a result of the design.
- Due to the limited size and characteristics of this site it is not possible to improve connectivity through the site. However, it does provide for improved public realm along the sites northern boundary with Taylors Lane. .
- It positively contributes to the mix of uses in the wider community.

Scale of site/building:

- The Daylight and Sunlight Analysis submitted demonstrates that access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents.
- Given the flat, low-lying nature of the existing site, and the height and orientation of the proposed blocks the development is unlikely to create negative local wind microclimate impacts.

7.3.14. I am satisfied that the relevant specific assessments required to support the development have been carried out in the reports submitted.

7.3.15. In addition, Objectives 4, 13, 33 and 35 of the National Planning Framework and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

Houses

7.3.16. The scheme also incorporates a terrace of 4 no. 3-storey residential dwellings located in the south east portion of the site. The information submitted on the typical house type floor plan indicates that the proposed room sizes and layouts would be in accordance with the provisions of the Quality Housing for Sustainable Communities Guidelines. The proposed dwellings have a contemporary design approach with metal clad dormer windows on the front elevation. The predominate external finish is brick which in my opinion complements the proposed nursing home building. While it is noted that concerns were raised in the appeal that the proposed development would

result in a substandard form of development for future residents I am satisfied that the proposed dwellings result in a high quality of residential amenity for future occupants.

Conclusion

- 7.3.17. Overall, I am satisfied that the height, form and massing of the scheme are appropriate at this urban infill site and that the proposed scheme successfully integrates into the streetscape, would aid with placemaking and legibility and would make a positive contribution to the wider area. It is also my view that the development would support the consolidation of the urban environment and represents a reasonable response to its context. Therefore, I am satisfied that the scheme is in accordance with the provisions the development plan and national policy.

7.4. *Open Space and Landscaping*

Open Space

- 7.4.1. Table 8.2 of the development plan states that there is an overall standard of 2.4ha of public open space per 1,000 population. This equates to 24sqm per person. The proposed scheme incorporates 111 no. bedspaces and 4 no. 6 person houses. Therefore, the scheme has the potential to accommodate 135 no. persons on the subject site. This requirement equates to 3,240sqm of public open space or c. 51% of the site area.
- 7.4.2. Table 8.2 also states that a minimum of 10% of the total site area should be provide for new residential developments. The proposed Open Space drawings submitted by way of clarification of further information indicates that a total of 2,662sqm of open space would be provided within the site. This is broken down into to 706sqm of public open space which equates to 11% of the total site area and an additional 1,512sqm of semi-private open space for the nursing home, 258sqm of private open space for the 4 no. dwellings and 186sqm of incidental open space.
- 7.4.3. It is acknowledged that the proposed scheme does not achieve the overall standard of 2.4 ha per 1,000 population. However, as the provision of public open space exceeds 10% of the total site area I am satisfied that the quantum of open space is in accordance with the provisions of the development plan.

7.4.4. The 706sqm public open space is divided into 2 no. elements with one area (560sqm) of public open space located in the south west portion of the site, adjacent to the Millrace and the mature trees to be retained. The second area (146sqm) of public open space is proposed at the sites south eastern boundary, adjacent to the proposed 4 no. dwellings. The areas of public open space are separated by an area of semi-private open space (684sqm) to serve the nursing home use. It is proposed that the areas of public open space would be physically separated from the area of semi-private open space by a metal fence. It is my opinion that this boundary is not appropriate. Having regard to the location of the open space adjacent to the riparian zone of the watercourse it is my view that the entire area of open space to the rear of the site should be available as public open space, as it would provide a cohesive walkway along the watercourse and would provide a greater amenity to the wider area and future residents of the 4 no. dwellings. This area would also be passively overlooked by the nursing home and the private houses on site.

7.4.5. I am satisfied that sufficient semi-private open space is available for residents of the nursing home within the central courtyard (434sqm) and along the nursing homes northern and western boundary (394sqm) and the proposed terrace area at the southern boundary of the building and the outdoor seating associated with the café use. It is my view that these areas at the southern boundary of the nursing home building and the protected structure could be physically separated from the area of public open space by a low wall or railing. If permission is being contemplated it is considered that this could be addressed by way of condition.

Private Open Space

7.4.6. Table 3.20 sets out minimum standards for private open space for residential dwellings. For a 3-bed house (92sqm) there is a minimum standard of 60sqm. Each of the 4 no. houses have been provided with a minimum of 60sqm rear private open space. Therefore, the provision of private open space is considered to be in accordance with development plan standards.

Trees

7.4.7. The Arboricultural Impact Assessment and Tree Survey submitted in response to Further Information indicate that there are 9 no. individual trees and no hedgerows on

the subject site. There are no category A trees. It is proposed to retain 3 no. trees. The trees to be retained are category B trees. The remaining 6 no. trees to be removed include 1 no. category B tree and 5 no. category C trees. I have no objection to the loss of 6 no. trees to facilitate the proposed development.

7.4.8. The Landscape Design and Access Report outlined the tree and shrub species to be planted within the new scheme. The provision of additional trees and vegetation within the site is welcomed and would have a positive impact on the visual amenities of the scheme and in the long term would have the added benefit of improving biodiversity within the site.

7.5. **Residential Amenity**

Overlooking and Overbearing Impact

7.5.1. The subject site is located in the urban area with frontage onto Taylor's Lane. The site is generally bound to the south and west by the rear gardens of existing residential properties on Palmer Park and Kingston Court and to the east by an existing service station. Concerns are raised in the appeal that the proposed development would result in overlooking and have an overbearing impact on the adjacent dwellings.

7.5.2. The proposed nursing home building is located a minimum of 9m from its southern boundary with the rear gardens of existing 2-storey dwellings on Palmer Park and c. 36m from the rear elevation of these dwellings. The site slopes up in a north south direction and the section drawings indicate that the 4 storey element of the nursing home building would have a finished floor level c. 6m below the finished floor level of dwellings in Palmer Park. The proposed nursing home building would also have a ridge height of c. 1m lower than the ridge height of these existing properties.

7.5.3. The gable end of the proposed terrace of 4 no. 3-storey dwellings is located c. 2.7m from the site's southern boundary and a minimum of c. 11m from the rear elevation of an existing dwellings on Palmer Park. The section drawings submitted indicate that the proposed 3 storey dwellings have a finished floor level c. 3m lower than existing dwellings in Palmer Park and the ridge height of the proposed dwellings would also be c. 1m lower than the ridge height of the existing dwellings.

- 7.5.4. While it is acknowledged that the proposed scheme would be highly visible from the existing dwellings to the south of the site, it is my opinion that due to the separation distances, the orientation of the dwellings and the relatively limited height of the proposed scheme it would not result in an overbearing impact or any undue overlooking of existing dwellings.
- 7.5.5. The 4-storey (15m) element of the proposed nursing home building is located a minimum of c. 24m from the rear gardens of existing 2 storey residential units in Kingston Court to the west of the subject site and c. 29m from the rear elevation of these dwellings. Again, it is acknowledged that the proposed scheme would be highly visible from the existing dwellings to the west of the site, however, it is my opinion that due to the separation distances, the orientation of the dwellings and the relatively limited height of the proposed scheme it would not result in an overbearing impact or any undue overlooking of existing dwellings.
- 7.5.6. Concerns are also raised in the appeal that the separation distances do not accord with the provisions of the development plan. Section 12.6.7 of the development plan recommends, in general, a minimum clear distance of c. 22m between opposing windows. As outlined above a minimum separation distance of 36m is provide between opposing windows in the existing and proposed residential units. Where the separation distances fall below 22m there are no opposing windows.
- 7.5.7. With regard to the internal layout the nursing home building is C shaped, with an internal courtyard. The courtyard is c. 15m in length. Therefore, there is separation distance of c. 15m between opposing nursing home bedroom windows. It is noted that the scheme has been design with window positions staggered, to prevent direct overlooking. It is also noted that there are limited (3m) separation distances between bedroom windows at the north east corner of the block. However due to the limited number of rooms (6 no.) impacted and the angle of the windows I have no objection to the proximity of the windows.
- 7.5.8. It is acknowledged that a 22m separation distance has not been achieved in all instances within the scheme. However, it is my opinion that this is not a material contravention of the plan, as the separation distances noted in the development plan do not relate to a specific policy and there is flexibility in the wording of the plan which

stats 'in general' a minimum clear distance of 22m between opposing windows should be provided. Overall, it is my opinion that the proposed separation distances between the bedrooms achieves a balance of protecting the residential amenities of future occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of the communal space.

Daylight, Sunlight and Overshadowing

7.5.9. The appeal raised concerns regarding potential overshadowing of existing properties resulting from the proposed development. A Daylight and Sunlight Assessment was not submitted with the application.

7.5.10. Section 12.6.6 of the development plan states that residential developments shall be guided by the quantitative performance approaches and recommendations under the 'Site Layout Planning for Daylight and Sunlight' (2nd edition): A Guideline to Good Practice (BRE 2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' or any updated guidance.

7.5.11. The BRE sets out recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

External Daylight, Sunlight and Overshadowing

7.5.12. The proposed scheme has a maximum height of c. 15m (4-storeys). However, due to the topography of the site it generally appears as c. 12m (3-storeys). As noted above the site is bound to the south by the rear garden of dwellings on Palmer Park and to the east by the rear gardens of dwellings on Kingstown Court. The separation distances between the existing dwellings and the proposed scheme range between 11m and 36m.

7.5.13. The lack of a submitted daylight / sunlight assessment is noted. However, I am satisfied that this does not have a material bearing on my assessment and that potential daylight / sunlight impacts upon existing residents in accordance with the

criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, having regard to the separation distances to existing dwellings, the relatively low rise height of the proposed development and the orientation of the site. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.

- 7.5.14. Overall, I am satisfied that that the proposed scale and form of the development limits the potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the proposed development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied.

Internal Daylight, Sunlight and Overshadowing

- 7.5.15. It is also noted that no daylight / sunlight assessment has been provided for the proposed uses and amenity spaces within the scheme. The proposed development in provides for a minimum separation distance of 15m between the courtyard of the nursing home. As noted above, the nursing home has a maximum height of 15m (4-storeys). The proposed separation distance within the nursing home building and between the nursing home building and 4 no. houses are acceptable and would limit the degree of obstruction. Buildings proximate to the subject site are not of a scale or height that would generate significant obstruction to light or overshadowing of areas. I am satisfied that potential daylight / sunlight impacts within the scheme are in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site.

Conclusion

- 7.5.16. In conclusion, I do not consider the omission of a specific daylight, sunlight and overshadowing assessment to be a critical deficit of the application proposal given the characteristics of the proposed development. The absence of this information has had no material bearing on my assessment, given the nature, scale and design of the proposal, and guidance in the BRE. The proposed development is at an appropriate

scale for the site location, with properties between 3 and 4 storeys in height, limiting the extent of overshadowing that may result.

7.5.17. As detailed above, the BRE guidelines are clear that access to natural light is only one of many factors in site layout design. I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between the units, relevant to the scale of the development. As such, I am content that daylight, sunlight and overshadowing conditions for the units within the proposed development will be within an acceptable range. While I acknowledge that the applicant has not submitted their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances and scale. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines and carried out a site visit. As such and noting that the guidelines state that numerical targets should be applied flexibly and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines.

7.5.18. It is also noted that the planning authority did not raise any concerns regarding undue overshadowing. On this basis it is reasonable to interpret that the proposed accommodation is within best practice limits.

7.6. **Built Heritage**

7.6.1. The site contains a vacant dwelling 'Newbrook House', which is a protected structure (RPS 300) and a number of vacant and derelict structures and sheds. Policy NCBH19 of the development plan aim to conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

7.6.2. Concerns are raised by third parties that the proposed scheme would have an overbearing and negative visual impact on the protected structure and that the location of car parking to the front of the protected structure would have a profound negative impact on the character and setting of Newbrook House.

7.6.3. The applicants Architectural Impact Assessment notes that Newbrook House was constructed in c. 1840. It is a part single part 2-storey dwelling with an internal floor area of c. 67sqm. The house was constructed along with the now demolished Kingston House as part of the Newbrook paper mill. The mill was damaged by fire in 1942 and was demolished.

Works to Newbrook House

7.6.4. It is proposed that the protected structure be utilised as the main entrance to the nursing home with the ground floor used as communal public space including a waiting area, hair salon and accessible toilet. To accommodate this use it is required to provide an accessible entrance to the front of the structure, comprising a c. 7.7sqm glass lobby in front of the main entrance door. The proposed glass structure would have minimal contact with the protected structure. It is noted that the original door would be retained and would act as an inner door to the lobby.

7.6.5. It is also proposed to construct a single storey rear extension to the protected structure to accommodate a café use (c. 32sqm) and an office (c. 8sqm). The extension would comprise a timber framed structure with large, glazed windows and doors to provide access onto the open space to the south. The external finish of the extension would include zinc clad panels in a vertical arrangements. It is proposed to alter the existing rear elevation of the protected structure to provide a connection through the building to the proposed rear extension. This requires dropping existing window cills to the ground and providing glazed doors.

7.6.6. The works also include a single storey glazed link from the eastern elevation of the protected structure towards the western elevation of the proposed nursing home building. Due to the topography of the site, the link would be provided at the ground floor level of the protected structure and the first floor of the proposed nursing home building. The glazed link is c. 2.5m in width by c. 1.8m in length.

7.6.7. It is also proposed to remove a number of redundant non-original service and metalwork fixed to the buildings facades. A structural survey of the building has also been submitted.

7.6.8. In my view having regard to the historical and cultural significance of the Newbrook House and its status as a protected structure the refurbishment and reuse of this building is welcomed. The Architectural Heritage Protection guidelines acknowledge that the best method of conserving a historic building is to keep it in active use and that a degree of compromise is required to accommodate modern living. The Guidelines also state that additions to structures contribute to the historical development of a building, and as such should be respected. In this regard I have no objection in principle to appropriately designed extensions to protected structures and I am satisfied that the proposed works are essential to convert the building for a new and viable use and that the alterations and extensions would not have a detrimental impact on the protected structure and would be in accordance with the provisions of Policy NCBH19 to conserve and protect protected structures. It is noted that no objections have been raised regarding the reuse the building and there was no objection by the planning authority's conservation officer to the proposed works.

7.6.9. Concerns are raised in the appeal that the proposed scheme would have an overbearing and negative visual impact on the protected structure. It is acknowledged that the height and scale of proposed development is significantly larger than Newbrook House and that the proposed development would be highly visible from the protected structure. This is evident in the submitted photomontages of the scheme which I considered to be a reasonable representation of how the development would appear. However, it is my opinion that the proposed scheme represents a high-quality contemporary development which provides a clear distinction between the protected structure and the new buildings and would not negatively impact on the character of the protected structure. The proposed development also allows for a viable and appropriate reuse of the historic building, which is in accordance with the provisions of the development plan and the Architectural Heritage Protection Guidelines.

Curtilage

7.6.10. An Taisce raised concerns that no effort has been made to preserve the remains of the old mill building and incorporate it into the scheme. While these concerns are noted, applicants Architectural Impact Assessment states that the mill was damaged by fire in 1942 and was demolished.

- 7.6.11. Section 3.4.5 of the development plan acknowledges that paper manufacturing was a significant industry in South Dublin County and Policy NCB16 aims to promote the county's industrial heritage. I agree with the applicants Architectural Impact Assessment that the protected structure is strongly linked to the former paper mill on the site and that the millrace watercourse is a significant element of the story of this site. However, with the exception of Newbrook House and the dried bed of the Millrace watercourse, which is classified as a drainage ditch, there is no historical evidence left on the site of the mill buildings.
- 7.6.12. The historic mapping provided in the Architectural Impact Assessment shows a parkland setting to the rear (south) of the protected structure. The area to the south now generally comprises the Palmer Park housing estate. The bed of the millrace still runs through the south eastern portion of the site and acts as a drainage ditch, to the rear of the protected structure, and is culverted under the site and Taylors Lane to the north. The Architectural Impact Assessment states that dried bed of the millrace would be highlighted by infilling the depression with washed pebbles and planting its border with reeds and other wetland plants. As noted above it is my recommendation that the sites boundary with the Millrace should be provided as public open space. It is my opinion that this would enhance the historic landscape features within the site and provide a benefit to the wider environs of the area, which is welcomed. I also agree with the report of the planning authority's conservation officer that the open space to the south of the protected structure would allow for circulation space around the building, ensuring there is a sense of space and setting for the protected structure. It is also proposed to install a display board to provide details of the history of the site, which would be in accordance with Policy NCB16 to promote the county's industrial heritage.
- 7.6.13. Concerns are raised in the appeal and by An Taisce that the location of the surface car parking to the front of the protected structure would have a profound negative impact on the character and setting of Newbrook House. It is proposed to provide 17 no. car parking spaces and a drop off area to the front of the protected structure. The drop off area is located c. 4m from the front building line of the protected structure. The historic mapping notes shows that Newbrook House originally had a formal garden to the front (north). This garden area is currently overgrown, with no evidence

of the former formal layout. It is acknowledged that the provision of car parking to the front of the building would impact on the setting of the protected structure. However, having regard to the limited size of the site, the current overgrown nature of the site and the setting of the protected structure with a former Builders yard, the requirement to provide adequate car parking provision, the zoning objective of the site and the significant benefit of restoring the protected structure and ensure it has a viable use I am satisfied that an appropriate balance has been achieved. It is also noted that the proposed layout retains views of the protected structure from Taylors Lane, which provides visual interest to the surrounding area which aids with placemaking and legibility. Therefore, in my view the location of the car parking area to the front of the protected structure is considered acceptable in this instance.

- 7.6.14. It is noted that the planning authority raised no objection to the location of the surface car parking to the front of the protected structure. However, condition no. 9(a) requested that prior to commencement of development proposals for additional planting within the car parking area should be submitted to and agreed with the planning authority. If permission is being contemplated it is recommended that a similar condition be attached to any grant of permission.

Demolition

- 7.6.15. The proposed scheme includes the demolition of vacant and derelict structures on the site and a section of the sites western boundary wall. As noted above these structures do not form part of the former paper mill buildings. The sheds and derelict structures have no architectural or cultural significance. They were constructed in blockwork to serve the builders yard previously located on the site. However, having regard to their location and that of the boundary wall within the former paper mill site and their proximity to the protected structure, it is my view that the structures to be demolished are located within the curtilage of the protected structure.
- 7.6.16. Part I of the Planning and Development Act states that a protected structure includes the land lying within the curtilage of the structure, any other structures lying within that curtilage and all fixtures and features which form part of the interior or exterior of any structure. While these vacant and derelict structures within the site are not themselves protected structures they are within the curtilage of the protected structure and in accordance with the provisions of the Act are, therefore, considered to be protected.

In this regard it is noted that Section 57(10) of the Act states that permission shall not be granted for the demolition of a protected structure, save in exceptional circumstances.

7.6.17. While the applicant has not provided details of any exceptional circumstances, it is noted that the structures to be demolished are in a state of disrepair. They do not contain any features of architectural merit and have no cultural or heritage significance. I am satisfied that their removal would have no impact on the setting of the protected structure and, therefore, I have no objection to their demolition. It is also noted that the report of the planning authority's Conservation Officer raised no objection to the demolition of these structures.

Conclusion

7.6.18. While the concerns of the third party and An Taisce regarding the potential negative impact that the proposed development would have on the protected structure are noted it is my view that the proposed scheme, which includes the nursing home building, 4 no. residential dwellings and the associated landscaping works and car parking, responds well to its context, the buildings are of an appropriate scale and height for this suburban location and would not negatively impact on the setting of the protected structure or its historical or cultural importance. Therefore, it is my opinion that the proposed development would be in accordance with policy NCBH19 of the development plan to conserve and protect structures and sites contained in the RPS to protect and that the proposed design approach is appropriate in this instance.

7.7. *Transportation*

7.7.1. The subject site is located in Ballyboden on the southern side of Taylors Lane, c. 7.5km south of Dublin city centre. There is a high-quality footpath and cycle network on both sides of Taylors Lane. There are east and west bound Dublin Bus stops immediately adjacent to the site on the Taylors Lane. These stops are served by the no.15D, 61, 161 and 175. There are also north and south bound bus stops on Ballyboden Road, c. 500m from the subject site. These stops are also served by the no. 15D and 61 and in addition, the no. 15B. The 15B is a high capacity and high frequency route, operating every 10 min in the AM and PM peak periods. Details of bus routes are provided in Table 2.1 of the applicants TTA. It is my view that this is an accessible urban site

within close proximity to a variety of services and amenities, both within Ballyboden and the wider environs of Rathfarnham and the city centre.

- 7.7.2. In addition, Taylors Lane is located on the proposed Bus Connects Route as indicated in Figure 2-10 of the applicants TTA. It is my view that the proposed infrastructure would improve journey times and that the site would most likely benefit from improved levels of public transport accessibility / public transport service provision via Bus Connects in the short to medium term.

Access

- 7.7.3. It is proposed to provide 2no. vehicular access to the site from Taylors Lane. It is noted that there is an existing access, which served the Builders yard previously on the subject site. It is proposed to realign this access to provide access to the 4 no. dwellings, car parking for the nursing home and a loading bay for deliveries and servicing associated with the nursing home use. It is also proposed to provide an additional access onto Taylors Lane that would provide access to car parking associated with the nursing home.
- 7.7.4. Concerns are raised by third parties that the access arrangements would result in a traffic hazard. As outlined in the applicants Addendum Transportation Report submitted to the planning authority in response to a request for further information on the 19th January 2022 there is an existing access to the site at the eastern portion of the sites northern boundary. This access would serve the 4 no. houses, 3 no. nursing home car parking spaces and a loading bay for deliveries and servicing associated with the nursing home use. It is noted that this existing access is located c. 30m east of an access to a petrol station.
- 7.7.5. The existing vehicular access to the site was most recently used to serve a commercial builders yard. The applicant utilised the TRICS database to provide a comparison between the number of vehicular trips generated by a non-food retail store and the proposed uses accessed via this existing vehicular access. The information indicates that the previous use on site (non-food retail) has the potential to generate significantly more vehicular trips (496 no.) per day that the proposed use (52 no.). Having regard to the information submitted by the applicant which is robust and evidence based and

to the sites location within an established suburban area, I have no objection to the continued use of this existing access to serve the proposed development.

- 7.7.6. All other access to the site would be via a proposed additional access at the western portion of the sites northern boundary. There is no internal link between to the 2 no. internal access roads. The additional access to the site is located c. 55m east of the existing access to be retained. This entrance provides access to 17 no. surface level car parking spaces. Taylors Lane to the north of the subject site has a 50kmph speed limit. Having regard to the significant distance between the 2 no. accesses and the proliferation of existing accesses onto Taylors Lane I am satisfied that turning movements generated by the proposed access arrangements would not result in any conflict and therefore would not result in a traffic hazard.
- 7.7.7. To facilitate sight lines at the western entrance onto Taylors Lane it is proposed to reduce the height of a 3m section of the existing western boundary wall at its boundary with Taylors Lane, to a maximum height of 0.9m. The proposed wall is not protected I have no objection to the removal of a section of the boundary wall to accommodate sightlines, however, it is recommended that the final details be agreed with the planning authority. The applicant shall also ensure that there is no conflict with the landscaping plans, which indicate that trees would be planted at this corner and may impede the sightlines, once fully mature.

Car Parking

- 7.7.8. It is proposed to provide 20 no. car parking spaces to serve the nursing home. Table 12.23 sets out a maximum standard of 1 no. space per 4 residents in a nursing home development in Zone 1. Therefore, a maximum of 27 no. spaces to serve the nursing home use are permissible. While it is noted that the proposed quantum of car parking is below the maximum standard set out in the plan it is my opinion that this is not material, as it does not relate to a specific policy of the development plan and there is flexibility in the wording of the plan with regard to car parking standards.
- 7.7.9. Table 12.26 of the development plan sets out a standard of 2 no. car parking spaces per 3 bed+ houses in Zone 1. In accordance with the provisions of Table 12.26 it is proposed to provide 8 no. car parking spaces in a communal area to the front of the 4 no. dwellings located in the south eastern portion of the site.

7.7.10. Third parties raised concerns that the proposed scheme would lead to haphazard and overspill car parking on the surrounding streets. I am satisfied that having regard to the nature and scale of the nursing home, the sites location in the urban area, its proximity to public transport and proximity to a wide range of services and facilities that the proposed level of car parking is appropriate in this instance. It is also noted that no concerns were raised regarding the proposed level of car parking by the planning authority.

Cycle Parking

7.7.11. Concerns are raised by third parties that inadequate and poor provision of cycle parking has been provided within the site. Table 12.23 of the development plan sets out minimum bicycle parking standard for a nursing home of 1 no. short term space per 10 residents and of 1 no. long term space per 5 no. staff. It is proposed to provide 24 no. bicycle parking spaces to serve the nursing home. The drawings submitted indicate 6 no. bicycle parking stands (12 no. spaces) to the front of the protected structure / entrance to the nursing home and 6 no. stands (12 no. spaces) within a bike store at ground floor level of the nursing home. I have no objection to the quantity or the quality of the proposed bicycle parking spaces. It is also noted that staff changing and shower areas are provided within the ground floor of the nursing home building, which is welcomed.

7.8. Ecology

7.8.1. Concerns are raised by third parties regarding the loss of trees, hedgerows and biodiversity within the site.

7.8.2. The subject site is located within the urban area. The applicants Ecological Impact Assessment states that a field survey was carried out on the 24th June 2021. Section 4.2 identifies habitats within the site. In this regard recolonising bare ground is the dominate habitat, with hedgerows and treelines along the sites southern boundary and to the west of the protected structure. The site also includes buildings and artificial surfaces, scrub and a drainage ditch. It is noted that the arboricultural Impact Assessment and Tree Survey note that there are no hedgerows on site. The applicant has also stated in the response to the appeal that there are no hedgerows on the subject site. Having regard to he information submitted and having carried out a site

visit on the 2nd June 2023 I am satisfied that there are no hedgerows within the existing site.

- 7.8.3. *Habitats*: There were no rare or protected species or protected habitats recorded on the site. The proposed development would result in the loss of existing scrub, recolonising bare ground and trees. The majority of the flora found on the site are recolonising species and are considered to have low ecological value. Therefore, the loss of habitat is not considered significant. The landscaping proposals include the planting of native species and the habitat value would improve overtime.
- 7.8.4. *Invasive Species*: The submission from Inland Fisheries Ireland notes that invasive species should be contained and treated in accordance with an Invasive Species Management Plan.
- 7.8.5. No invasive plant species listed in the Third Schedule of the European Communities Birds and Natural Habitats Regulations were recorded. Sycamore, Butterfly-bush, Himalayan Honeysuckle and Wall Cotoneaster which are invasive species were recorded within the site. These species are not included in the Third Schedule and, therefore, their presence at the site does not have the potential to lead to an offence under the Birds and Natural Habitats Regulations 2011 (S.I. 477 of 2011). However, there is potential during the construction phase for invasive species to be spread outside the boundary of the proposed development, thus impacting negatively on adjoining habitats. However, any potential risks from invasive species would be managed during the construction phase and, therefore, there is no risk from the spread of invasive species during the operational phase has been identified. Section 7.3 of the EclA outlines controls for the prevention / treatment of invasive flora species. If permission is being contemplated it is recommended that a condition be attached at all mitigation measures outlined in the EclA be implemented.
- 7.8.6. *Mammals*: The applicants Ecological Impact Assessment notes that there are numerous records for badgers in the vicinity of the site, however, there were no signs of badgers within the subject site. The scrub has the potential to provide suitable foraging habitat for badgers, however, the urban nature of the site is considered to be of considerable disturbance to badgers. Badgers are protected species under the Wildlife Act and it is an offence to cause disturbance to badgers or their resting places

(setts). Therefore, if permission is being contemplated it is recommended that a pre-construction survey be required to check for any new setts prior to commencement of development.

7.8.7. The EclA also notes that there were no signs of otters during the site survey. As the site is mainly comprised of artificial surfaces and scrub it is considered of lower value to foraging otters.

7.8.8. Due to the urban location, it is unlikely that larger mammals such as deer, rabbit or hare would be found within the site. There was evidence of fox activity within the site and although not observed during site survey hedgehog, stoat and wood mouse are likely to be present on the site. I am satisfied that the proposed development would not have a significant impact upon terrestrial mammals.

7.8.9. *Bats:* 3 no. bat surveys were carried out in June / July 2021. Details of the survey are provided in Section 4 of the applicants Bat Survey report. 2 no. bats were recorded during the surveys. A Soprano pipistrelle was detected flying along the front of the derelict sheds and a Leisler bat was observed flying over the site. No bats were observed emerging from Newbrook House or any structure on site and all structures are considered to have a negligible potential for bat roosts. The Bat Survey report considers that streetlight from Taylors Lane is likely a contributing factor to the low levels of bat activity recorded on the site. Having regard to the information submitted, which is evidence based, it is my view that the proposed development would have a negligible impact on bat species.

7.8.10. *Birds:* The majority of bird noted during the site assessment are relatively common species. 3 no. species of House Sparrow were recorded within the scrub and tree line and 1 no. Lesser Black-backed Gull flew over the site. These 2 no. species are amber listed on the Birds of Conservation Concern in Ireland. No species of high conservation status were recorded within the proposed development site.

7.8.11. It is acknowledged that the removal of treeline and scrub habitats would remove nesting and foraging habitat for a range of bird species. However, I am satisfied that the removal of these habitats would have a negligible impact on the local bird population. It is further noted that there is suitable nesting habitat adjacent to the site and many of these common and widespread species can avail of garden habitats

typical in suburban environments. However, it is recommended that the clearance of vegetation from the development site during the breeding season should be avoided as it could lead to the direct loss of nests, eggs and nestlings.

7.8.12. *Reptiles and Amphibians*: The drainage ditch runs through the south western section of the site, before it is culverted within the site. This watercourse is suitable for amphibians, such as the common frog. No lizards were noted during the site survey. I am satisfied that the proposed development would not negatively impact on the reptile or amphibian population in the area.

7.8.13. Overall, having regard to the present condition of the site, with no special concentrations of flora or fauna, to the information submitted by the applicant which is robust and evidence based and having carried out a site visit, I am satisfied that the redevelopment of the site would not negatively impact on biodiversity. I draw the Boards attention to the AA section of my report (Section 8) where the potential impact of the proposed development on designated European sites in the area is discussed in detail. It is noted that the planning authority raised no objection regarding the loss of vegetation within the site.

7.9. **Water Services – Drainage**

7.9.1. The submission from Inland Fisheries Ireland states that a Construction Environmental Management Plan should identify potential impacts and mitigation measures. The existing watercourse is of limited fisheries potential, however, the proposal to realign it could potentially cause significant silt pollution in the downstream catchment. Creation of the realigned channel must be completed in line with a detailed method statement with strict adherence to environmental controls.

7.9.2. The site specific Flood Risk Assessment submitted in response to the request for further information notes that the drainage channel within the boundary of the site was originally supplied with water via a weir on the Owenadoher River, located c. 625m south west of the subject site. There is currently no mechanism for waters to discharge to this channel. The drainage channel (Millrace) is not a natural fluvial watercourse and has a limited catchment area. The report notes that the drainage channel is significantly overgrown with no discernible flow.

- 7.9.3. It is proposed to realign the existing drainage channel as part of the storm water management strategy for the site. All surface water run-off from the site would be treated prior to entering the drainage ditch and the flow would be restricted before discharging to the existing culvert under the subject site, which connects to the public surface water drainage system under Taylors Lane.
- 7.9.4. The concerns of Inland Fisheries are noted. However, during the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects downstream can be excluded given the highly modified nature of the Millrace, the distant and interrupted hydrological connection to the downstream catchment and the nature and scale of the development.
- 7.9.5. In conclusion, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts.

7.10. ***Land Contamination***

- 7.10.1. Concerns are raised that there is a risk of contamination as chemicals have not been removed from the site and that there are legacy issues from the site being used as builders yard.
- 7.10.2. The Phase 1 Desktop Study Report submitted with the application identified potential contamination sources on site, which include the previous builders merchant use on the subject site, the proximity to the petrol station to the east of the site and other unidentified potential contaminative sources. The Phase 2 Ground Investigation Report notes that intrusive site investigations were carried out and that the results of the laboratory tests suggest that the remediation strategy for the site needs to address the presence of arsenic, lead and Dibenz(a,h) Anthracene.
- 7.10.3. Disturbance of contaminated soils could result in potential for water pollution and potential further land contamination. The applicants risk assessment concludes that the risk to water and human health is low / moderate. Therefore, there is a requirement

to close off any pathway between the potential contaminate and a receptor. The report notes that the most appropriate option would be to cap the contaminated area with buildings or landscaping.

7.10.4. The Construction and Demolition Waste Management Plan does not address Ground the findings of the Investigation Report, however, it notes that hazardous waste would be stored separately from non-hazardous waste, would be appropriately labelled and would be stored upon bunds where appropriate. The appointed waste contractor would be licenced to transport and accept hazardous waste.

7.10.5. GI 5 Objective 5 of the development plan aims to promote positive land and soil protection measures to avoid degradation or loss of natural soil resources, to minimise sealing of soils and to remediate contaminated land.

7.10.6. Having regard to the information submitted I am satisfied that the applicant has fully considered the risk of contamination within the site and that this can be controlled during the construction phase through best practice methods. If permission is being contemplated it is recommended that a condition be attached to any grant of permission that in accordance with GI Objective 5 of the development plan a remediation strategy for the site be submitted and agreed in writing with the planning authority.

8.0 Appropriate Assessment

8.1 Introduction

8.1.1. The applicant has prepared an AA Screening Report as part of the application. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

8.2 Compliance with Article 6(3) of the Habitats Directive

8.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in

combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.2.2. The applicant has submitted a Screening Report for Appropriate Assessment prepared by Panther Environmental Solutions Limited and an additional report was submitted in response to the appeal. The AA Screening Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The AA screening report concludes that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European site.

8.2.3. I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

8.3. ***Stage 1 AA Screening***

8.3.1. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

8.4. ***Brief Description of the Development***

8.4.1. A description of the project is provided in Section 4 of the report. The proposed development is also summarised in Section 2 of my report. In summary, the proposed development consists of a 111 no. bed nursing home incorporating Newbrook House (protected structure) with associated uses and 4 no. dwellings on a c. 0.63 ha site on

Taylor's Lane, Ballyboden, c. km south of Dublin city centre. The surrounding area is urban in nature with a mix of residential, commercial and retail uses in the immediate vicinity of the site. The site is serviced by public water supply and foul drainage networks. Foul effluent and surface water will drain to the existing public network on Taylor's Road. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

8.4.2. There is an existing drainage ditch (Millrace) that runs through the southern and eastern portion of the site. The drainage channel previously formed part of the mill race channel that was supplied with water via a weir on the Owenadoher River, located c. 625m south west of the subject site. There is currently no mechanism for waters to discharge to this channel. The drainage channel is not a natural fluvial watercourse and has a limited upstream catchment area. The report notes that the drainage channel is significantly overgrown with no discernible flow. The ditch has the potential to flow to the Dodder River via the Kilmashogue Stream and Owenadoher River and ultimately to Dublin Bay. Watercourses in the vicinity of the site are indicated in figure 4.3 of the applicant's AA Screening Report.

8.4.3. ***Submissions and Observations***

8.4.4. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised above. The third party appeal considers that the AA Screening Report fails to identify the connection between the Wicklow Mountains and the watercourse on site.

8.5. ***Zone of Influence***

8.5.1. The proposed development is not located within or immediately adjacent to any European Site. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor

framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features.

8.5.2. Section 5 of the applicant's report considers that there are 10 no. European Sites are within the Zone of Interest. As outlined above it is my view that there are 11 no. designated sites within 15km of the subject site. These are outlined below.

| Wicklow Mountains SPA (004040) 5km from the subject site | |
|---|---|
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103] |
| Wicklow Mountains SAC (002122) 5.4km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] Blanket bogs (* if active bog) [7130] |

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| | <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p> |
| Glenasmole Valley SAC (001209) 5.6km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> |
| South Dublin Bay and River Tolka SPA (004024) 7.2km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> |
| South Dublin Bay SAC (000210) 7.2km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> |
| Knocksink Wood SAC (000725) c. 9km from the subject site | |

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| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Petrifying springs with tufa formation (Cratoneurion) [7220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] |
| Ballyman Glen SAC (000713) c. 11.5km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Petrifying springs with tufa formation (Cratoneurion) [7220] Alkaline fens [7230] |
| North Bull Island SPA (004006) 11.6km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Turnstone (Arenaria interpres) [A169] |

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|---|--|
| | Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999] |
| North Dublin Bay SAC (000206) 11km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimi</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]. |
| Dalkey Islands SPA (004172) c. 13km from the subject site. | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] |
| Rockabill to Dalkey Island SAC (003000) 11.8km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351] |

8.5.3. The proposed development has no potential source pathway receptor connections to any other European Sites.

- 8.5.4. Due to the separation distance and the hydrological link between the site and the South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka SPA (004024) the applicant carried out a further assessment of the potential impact on these site. To address concerns raised in the appeal regarding a hydrological link to the Wicklow Mountains SAC (002122) and the Wicklow Mountains SPA (004040) the applicant also provided an assessment of the impact on this designated site.
- 8.6. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Dodder River and the Ringsend WWTP and could, therefore, reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.
- 8.7. There is a potential hydrological link between the subject site and both the Wicklow Mountains SPA (004040) and Wicklow Mountains SAC (002122) via surface water run-off. However, as these sites are located upstream of the subject site and the subject site does not contain any habitat or species for which these sites are designated I am satisfied that they can be screened out from further assessment.
- 8.7.1. I am also satisfied that the potential for impacts on the other designated sites can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link, the subject site provides no ex-situ habitat for any of the waterbird/seabird species and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.
- 8.8. **Screening Assessment**
- 8.8.1. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are outlined in the table above.
- 8.9. **Consideration of Impacts**
- 8.9.1. It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

8.9.2. The submission from Inland Fisheries Ireland raises concerns regarding the potential during the construction phase for sediments and various pollutants to ensure into the surrounding watercourse, which could have a significant negative impact on the fauna and flora of the Dodder catchment. An existing watercourse runs through the south eastern portion of the site which provides a distance hydrological link to Dublin Bay, via the Kilmashogue Stream, Owenadoher River and the Dodder River. It is proposed that surface water from the proposed development would discharge to the public network on Taylors Lane. The habitats and species of Natura 2000 sites in Dublin Bay are between 5.4km and 7.2km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay via the public storm network and the watercourse (Millrace) on site. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

8.9.3. The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note the development is located on serviced lands in an urban area, which was previously used as a printing factory. The proposal includes SUDS / attenuation measures which will restrict surface water run-off into the public sewer on Taylors Lane. As such the proposal will not generate significant demands on the existing municipal sewers for surface water.

- 8.9.4. The foul discharge from the proposed development would drain, via the public sewer on Botanic Road, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway. The submission from Inland Fisheries Ireland states that it is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. It notes that Ringsend WWTP is currently overloaded and any additional loading to the current plant is premature until the upgrade is complete.
- 8.9.5. The subject site is identified for development through the land use policies of the Dublin City Development Plan 2022-2028. This statutory plan was adopted in 2022 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is for a relatively small residential development providing for 111-bed space nursing home and 5 no. houses, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.
- 8.9.6. The Construction and Demolition Waste Management Plan and the Operational Waste states that all waste from the construction phase and the operational phase would be disposed of by a registered facility.
- 8.9.7. The site is located in an urban area and has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site,

the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

8.10. **AA Screening Conclusion**

8.10.1. It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required

8.10.2. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

8.10.3. It is reasonable to conclude that on the basis of the information on 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 North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the zoning objective of the subject site, its location within an existing urban area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable in terms of built heritage and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 20th August 2021 as amended by the further plans and particulars submitted on the 19th January 2022 and 12th May 2022 a, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment Report, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority a remediation strategy for contaminated land on the subject site.

Reason: In the interest of public health

4. The proposed development shall be amended as follows: -

- a) The metal fence separating the public and semi-private areas of open space along the southern portion of the site shall be omitted. This area of open space shall be made available to the general public. It shall be open 24 hours a day, with no gates or security barriers at the entrance to the development or within the development, in a manner which would prevent pedestrian access.
- b) Additional planting shall be provided within the car parking area to the front of the protected structure.

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

Reason: In the interest of residential and visual amenity and to secure the integrity of the proposed development

5. To ensure sightlines are not impeded by the proposed tree planting in the north west portion of the site, the applicant shall submit revised proposal for boundary planting for the written agreement of the planning authority.

Reason: In the interest of traffic safety.

6. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first

planting season thereafter. This work shall be completed before the nursing home is made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

7. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

8. Details of signage relating to the nursing home use shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging

points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles

11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

12. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

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

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

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

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

Reason: In the interests of visual and residential amenity.

15. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

16. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19. 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.

Reason: In the interest of sustainable waste management.

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

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

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any

part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

22. 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.

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.

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.

Elaine Power

Senior Planning Inspector

19th June 2023