



An
Bord
Pleanála

Inspector's Report

ABP-314161-22

Development

Demolition of dormer bungalow and clearance of all commercial buildings and structures on site and construction of two Build-to-Rent (BTR) apartment blocks (A & B); to contain a total of 99 apartments and communal facilities – including car- and bicycle-parking; and all associated site works.

Location

Beaumont Road/Beaumont Grove/Ellenfield Road, Beaumont, Dublin 9.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

3881/22

Applicant(s)

Urban Life (BMD) Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

1st & 3rd Parties

Appellant(s)

Urban Life (BMD) Ltd.

Observer(s)	Hugh Rafferty
	Róisín Shortall, TD
	Anne Gavin
	Beaumont Residents Association
	Carol Dempsey
	Mary Heffernan
	Patrick Magee
	Bernadette Rogers
	Mark Dawson & Anne Robinson
	Finola Davies
	Elaine Brennan
	Kathy Noonan
	Seamus Connolly
	Carmel Zea
	Paul Sheridan
	Gerry O'Grady
Date of Site Inspection	26 th & 31 st July 2023
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.58ha, is located at the junction of Beaumont Grove and Beaumont Road, Beaumont, Dublin 9: the junction is signal-controlled. There is a semi-derelict, dormer-bungalow and associated overgrown garden at the southwestern end of the site. A large, vacant, single- and two-storey commercial buildings complex (stated area of 546sq.m), and now falling into dereliction; located to the rear and side of the house, has an associated area of cobble-lock paving for parking purposes (stated to be 1,150sq.m). The remainder of the site (to the northeast) is scrub vegetation with a clump of semi-mature field maples trees. The site is generally flat – with a fall of approximately 2.0m from west to east.
- 1.2. The house takes access from a slip road off Beaumont Road – the main road having been realigned slightly further to the southeast. There are two, separate vehicular access points from this slip road to the commercial buildings complex – one access on either side of the dormer-bungalow. There are three, semi-mature, sycamore trees within the grass island between the slip road and Beaumont Road proper. Public footpaths and public lighting are in place. There are no car-parking restrictions in place on either the slip road or Beaumont Grove. Beaumont Road is served by the number 14 and number 16 Dublin Bus routes. There are on-road bicycle lanes on either side of Beaumont Road – in operation from 07.00-10.00 hours & 12.00-19.00 hours Monday to Saturday. There are no parking restrictions in place on either Glencorp Road or Ellenfield Road.
- 1.3. To the northeast, the site abuts Beaumont Grove (a residential cul de sac) – the boundary with which is a temporary fence. There is a belt of semi-mature, deciduous trees within an area of open space between the site boundary and the road. There is a single-storey house and a row of two-storey, semi-detached houses on the opposite side of Beaumont Grove. To the southeast, the site abuts the slip road/Beaumont Road – the boundary with which is a dilapidated, 1.0m high, old calp limestone wall in front of the dormer-bungalow – and undefined in front of the remainder. Temporary fencing has been constructed along this entire boundary. There is two-storey, semi-detached housing on the opposite side of Beaumont Road. To the southwest, the site abuts two small blocks of apartments (one two-storey, 'Ashley'; and the other three-storey, 'Laragh') – the boundary with which is a concrete wall – 1.7-2.4m high. These two blocks form part of a larger complex of

apartment blocks within Gracepark Court – the remainder all being of three storeys. To the northwest, the site abuts the rear gardens of two-storey, terraced, houses in Glencorp Road (numbers 29-32), and the side elevations of two-storey, terraced, houses in Ellenfield Road (numbers 9 & 23B) – the boundary with which is formed by the commercial buildings complex on the site and by concrete walls. There are some mature deciduous trees to the rear of the commercial buildings complex – outside of the site boundary. There is no access to the site from Ellenfield Road – the boundary with which is a 3.5m high concrete block wall (uncapped and unplastered), painted white. Number 23B Ellenfield Road has a first-floor gable elevation window directly abutting and addressing the appeal site. Both numbers 9 & 23B Ellenfield Road (which directly abut the appeal site) are later insertions into the streetscape – constructed in the side gardens of numbers 8 & 23 respectively.

2.0 Proposed Development

2.1. Permission sought on 4th May 2022, for apartment development comprising the following elements:-

- Demolition of 72 Beaumont Road (a dormer-bungalow) and commercial buildings complex – totalling 785sq.m
- Construction of two new apartment blocks (A & B), of three to six storeys each – comprising 2 studio units, 67 one-bedroom units and 30 two-bedroom units (99 units in total), with a floor area of 7,998sq.m.
- Landscaped, communal open space area to rear of block A (783sq.m), smaller terrace area to front of block B (67sq.m), landscaped podium-level open space to rear of block B (580sq.m) and roof garden at second-floor level within block A (60sq.m) – giving a total of 1,490sq.m.
- Public open space area (1,243sq.m), between and in front of, the two blocks – to form a new pedestrian/bicycle plaza link; to connect Ellenfield Road with Beaumont Road.
- 40 car-parking spaces, 6 motorbicycle-parking spaces and 184 bicycle-parking spaces, at undercroft level to rear of block B – with vehicular access off the slip road.
- Community facilities/work hub space at ground-floor level, within block B.

- Electricity sub-station, plant, bulk storage areas and bicycle stores within ground floor of block B; and bicycle store within ground floor of block A.
- Green roofs of 1,138sq.m.
- Connections to public watermains and sewers.

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

- Planning Report – undated.
- Appropriate Assessment Screening & Natura Impact Statement – dated March 2021.
- Engineering Assessment Report – dated May 2022.
- Flood Risk Assessment – dated May 2022.
- Mobility Management Plan – dated May 2022.
- Outline Construction & Demolition Management Plan – dated May 2022.
- Report on Bus Capacity Survey – dated May 2022.
- Childcare Demand Assessment – undated.
- School Capacity Assessment – undated.
- BTR Justification Report – undated.
- Energy Statement Compliance Report on Part L – dated 27th April 2022.
- Daylight, Sunlight and Overshadowing Study – dated 29th April 2022.
- Outdoor Lighting Report – dated 29th April 2022.
- Building Lifecycle Report – undated.
- Landscape Management & Maintenance Plan – dated March 2021.
- Townscape & Visual Impact Assessment – dated April 2022.
- Archaeological Assessment – dated 20th April 2022.
- A3-size Urban Development & Building Height Report – dated April 2022.
- A3-size booklet of drawings and schedules – dated April 2022.
- A3-size Architectural Design Statement – dated April 2022.

- A3-size booklet of photomontages – dated April 2022.
- Validation letter (Part V) – dated 27th April 2022 – indicating that an agreement in principle, to comply with Part V, has been reached with the applicant.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 28th June 2022, Dublin City Council (DCC) issued a Notification of decision to refuse planning permission for 3 reasons, as follows-

1. Development is too tall, by reference to section 16.7 of the Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities (2018).
2. Development would be overbearing – particularly in relation to Ellenfield Road, and would be contrary to the Z1 zoning objective.
3. Scheme is substandard by reference to overall quality and quantity of residential support facilities and residents' services and amenities – together with poor access to communal open space for block A. The Average Daylight Factor is unsatisfactory for a significant number of the proposed units. The development would be contrary to the requirements of the Design Standards for new Apartments, 2020 (including SPPR 7).

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Report, dated 27th June 2022, describes the development and outlines the relevant sections of the Development Plan. Issues raised in 50 objections are summarised. The precedent permission and ongoing judicial review proceedings in relation to the grant of permission (ref. 2569.21) is noted. The comprehensive report addresses all relevant issues. Refusal of permission was recommended for 3 reasons.

3.2.2. *Other Technical Reports*

Air Quality Monitoring & Noise Control Unit

Report, of 25th May 2022, recommends an Acoustic Report in relation to potential impacts on future residents from traffic noise on Beaumont Road. An Asbestos Survey is required prior to demolition of any structures on the site. The submission of an Outline Construction Management Plan is noted. Conditions are suggested for any grant of permission – relating to noise control and air quality, during the construction and operation phases. The report is accompanied by a document entitled “Air Quality Monitoring and Noise Control; Unit’s Good Practice Guide for Construction and Demolition”.

Engineering Department – Drainage Division

Report, of 2nd June 2022, recommends additional information, as there are new trees indicated directly over the line of the proposed diversion route for the public surface water sewer.

Transportation Planning Division

Report, dated 15th June 2022, recommended a Road Safety Audit. Concern was expressed in relation to taking-in-charge of the pedestrian/bicycle plaza link (due to the presence of surface-water retention infrastructure). Connection through to Ellenfield Road is welcomed. It is not clear if cyclists can bicycle through the site. The electricity substation should be accessed from a public road. It is not clear if the undercroft parking area is gated or whether entry is controlled. Pedestrian priority should be maintained at the proposed car-park entrance. The on-street, car-sharing space is not acceptable, and should be relocated. Undercroft layout may not permit turning of vehicles. Concern is expressed that car-parking may overspill onto adjoining roads. Bicycle parking should be per block – and not as proposed, with the majority within block B. Visitor bicycle parking should be located near the entrances to the blocks. A Bicycle Management Plan should be submitted. No arrangement made for service vehicles visiting the site.

Parks Biodiversity & Landscape Services

Report, dated 22nd June 2022, states that a group of field maples within the site should be retained. Compensatory planting should include field maples. Public open space provision is satisfactory: this space will not be taken-in-charge. A play area should be provided to the rear of block A as well as block B. Conditions are suggested to accompany any grant of permission.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

A large number of observations were received by the planning authority during the consultation period, all of which were submitted by or on behalf of residents of the area, local elected representatives and local residents' groups. The issues raised are addressed in the Planner's Report for DCC.

4.0 Planning History

Ref. 0140/90: Permission granted for change-of-use from wholesale/storage to retail storage and display area, with provision for off-street car-parking and a new vehicular access off the slip road adjoining Beaumont Road.

Strategic Housing Development pre-application consultation meetings, for a residential development, were undertaken between September 2020 and December 2020, under Dublin City Council planning refs. PAC0059/20 and PAC0090/20.

Ref. 2569/21: Permission refused for demolition of all buildings on this site and construction of 99 Build-to-Rent apartments (66 one-bedroom, 30 two-bedroom and 3 three-bedroom units). Block A ranged in height from three to eight storeys; and block B ranged in height from three to six storeys. On appeal by the 1st party to the Board (**ABP-310709-21**), permission was granted subject to conditions, on 11th January 2022. Condition 2 of the permission reduced the height of block A to six storeys – thereby reducing the number of units to 93. The decision of the Board is the subject of Judicial Review proceedings to the High Court.

5.0 Policy Context

5.1. National Planning Policy

Project Ireland 2040 - National Planning Framework

- 5.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP), which

has recently been updated. The NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040; and within this framework, Dublin is identified as one of five cities to support significant population and employment growth. National policy objective (NPO) 3(b) aims to deliver at least half of all new homes within the existing built-up footprints of the five largest cities.

- 5.1.2. The NPF supports the requirement, set out in the Government's strategy within 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', to ensure the provision of a social and affordable supply of housing in appropriate locations. Section 4.5 of the NPF addresses infill and brownfield development; where NPO 11 supports a presumption in favour of development encouraging more people and generating more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth. Further NPOs for people, homes and communities are set out in Chapter 6 of the NPF. NPOs of relevance to this application include NPOs 13, 27, 33 and 35 relating to densification and compact urban growth.

5.2. Regional Planning Policy

Eastern & Midland Regional Assembly Spatial and Economic Strategy 2019-2031

- 5.2.1. The RSES supports the implementation of Project Ireland 2040, and the economic and climate policies of the Government, by providing a long-term, strategic, planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant in this case:

RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin City and its suburbs, while a target of at least 30% is required for other urban areas.

- 5.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP); to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land-use, and the alignment of growth with enabling infrastructure.

5.3. Development Plan

- 5.3.1. The relevant document is the Dublin City Development Plan 2022-2028 (hereafter referred to as the 'Plan'). The appeal site and adjoining lands are zoned objective Z1 – 'Sustainable Residential Neighbourhoods', with a stated objective 'To protect, provide and improve residential amenities'. Build-to-Rent (BTR) development is 'Open for Consideration' within this zoning.
- 5.3.2. The site is located with Zone 2 for parking purposes [Map J of the Plan]. This map indicates that there is a Proposed Bus Connects Radial Core Bus Corridor on the Swords Road at Whitehall.
- 5.3.3. Chapter 5 of the Plan deals, amongst other things, with BTR units, and the following policies are of relevance-

Policy QHSN40

To facilitate the provision of Build to Rent (BTR) Accommodation in the following specific locations:

- Within 500 metre walking distance of significant employment locations,
- Within 500 metres of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and
- Within identified Strategic Development Regenerations Areas.

There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure there are opportunities for a sustainable mix of tenure and long term sustainable communities, a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020.

There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate:

- that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR.

- how the development supports housing need, particularly with regard to tenure, unit size and accessibility with particular reference to the Dublin City Council Housing Need and Demand Assessment.

Policy QHSN41

To discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

Policy QHSN42

To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

- 5.3.4. Chapter 15 deals with development standards. Table 15-4 indicates that there is a requirement for 10% of 'Z1' zoned lands that are to be developed, to be provided as meaningful public open space; although this can be addressed via contributions *in lieu* of a shortfall in certain circumstances. Section 15.8.8 states- "Applications which include the provision of public open space shall be subject to a requirement to provide for appropriate playground facilities. In schemes of 25 or more units, small play spaces of 85-100 sq. m. are considered suitable for toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building". Section 15.10.1 deals with BTR development design standards and states- "Whilst the Guidelines do not provide for a quantitative standard residential support facilities and resident services and amenities, a general guideline of 3 sq. m. per person is recommended. This will be assessed on a case by case basis where the applicant can demonstrate a high standard of services and facilities". Section 15.9.2 sets out minimum unit sizes. Reference is made to two-bedroom (three-person) units comprising not more than 10% of the total of the overall unit mix. No minimum, floor area is given for such units. Section 15.9.3 of

the Plan requires a minimum of 50% of units to be 'dual-aspect' in a suburban setting, such as this one.

- 5.3.5. Appendix 3 deals with sustainable compact growth – a policy for density and building height in the city. It references the “Urban Development and Building Heights – Guidelines for Planning Authorities” – December 2018. The Guidelines are explicit; that it is inappropriate for a development plan to include generic height limits across a functional area. Locally higher buildings are defined as being up to 50m in height. Table 1 indicates density ranges of 60-120 units per hectare in outer suburbs. Table 2 gives indicative plot ratio and site coverage for the 'Outer Employment and Residential Area' of 1.0 - 2.5 and 45 - 60% respectively.

Table 3 sets out objectives and their associated performance criteria, in assessing proposals for enhanced height, density and scale. They are-

1. To promote development with a sense of place and character.
2. To provide appropriate legibility.
3. To provide appropriate continuity and enclosure of streets and spaces.
4. To provide well connected, high quality and active public and communal spaces.
5. To provide high quality, attractive and useable private open spaces.
6. To promote mix of use and diversity of activities.
7. To ensure high quality and environmentally sustainable buildings.
8. To secure sustainable density, intensity at locations of high accessibility.
9. To protect historic environments from insensitive development.
10. To ensure appropriate management and maintenance.

- 5.3.6. Appendix 5 deals, amongst other things, with car-parking and bicycle parking. Table 1 requires one bicycle parking space per bedroom and one short-stay/visitor space per two apartments. Table 2 indicates a maximum requirement of one car-parking space per apartment within Parking Zone 2. Section 4.0 of the Appendix states that “Parking Zone 2 occurs alongside key public transport corridors”. It further states-

A relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location. Applicants must

set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on the following criteria:

- Locational suitability and advantages of the site.
- Proximity to High Frequency Public Transport services (10 minutes' walk).
- Walking and cycling accessibility/permeability and any improvement to same.
- The range of services and sources of employment available within walking distance of the development.
- Availability of shared mobility.
- Impact on the amenities of surrounding properties or areas including overspill parking.
- Impact on traffic safety including obstruction of other road users.
- Robustness of Mobility Management Plan to support the development."

5.3.7. Appendix 16 of the Plan deals with Sunlight and Daylight.

5.4. Ministerial Guidelines

The "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in December 2020, are of relevance [hereafter referred to as the Apartments Guidelines]. Also of relevance are the "Urban Development and Building Heights – Guidelines for Planning Authorities", issued by the Department of Housing, Planning and Local Government in December 2018 [hereafter referred to as the Building Heights Guidelines].

5.5. Natural Heritage Designations

5.5.1. The nearest European sites; Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 1. Natural Heritage Designations

Site Code	Site Name	Distance	Direction
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004024	South Dublin Bay and River Tolka Estuary SPA	2.7km	southeast
004006	North Bull Island SPA	4.5km	east
000206	North Dublin Bay SAC	4.5km	east
000210	South Dublin Bay SAC	5.6km	southeast
000199	Baldoyle Bay SAC	6.7km	east
004016	Baldoyle Bay SPA	7.2km	east
000202	Howth Head SAC	9.3km	east
000205	Malahide Estuary SAC	8.6km	northeast
004025	Malahide Estuary SPA	8.6km	northeast
003000	Rockabill to Dalkey Island SAC	10.0km	east
004117	Ireland's Eye SPA	11.1km	east
002193	Ireland's Eye SAC	11.3km	east
004113	Howth Head Coast SPA	12.0km	east
000208	Rogerstown Estuary SAC	12.9km	northeast
004015	Rogerstown Estuary SPA	13.2km	northeast
004172	Dalkey Islands SPA	15.0km	southeast

5.5.2. An Appropriate Assessment Screening Report & Natura Impact Statement (dated March 2021), accompanied the application. [This Report may have been updated – as it refers to the site having been largely cleared of vegetation in 2022]. The Report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development (15km). The Report is supported by associated reports, including an Engineering Assessment Report and a Flood Risk Assessment.

5.5.3. Reference is made in documentation submitted to a potential culverted stream running adjacent to the site – and which forms part of the River Wad catchment. The Screening Report states that there is a possibility that materials could escape the site to this culverted surface water pathway, creating the potential for a distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. Consequently, the Appropriate Assessment

Screening Report concluded that, in the absence of mitigation measures, potential significant impacts on North Bull Island SPA and North Dublin Bay SAC could not be ruled out, and a Natura Impact Statement (NIS) accordingly accompanied the application.

- 5.5.4. The Planning Authority concluded that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.
- 5.5.5. The site contains disused commercial and residential buildings and associated yard areas. It is serviced by public water and sewerage networks. The Appropriate Assessment Screening Report states that the site contains no substantive features of ecological significance and exhibits no examples of invasive species. The site supports none of the habitats or species that are qualifying interests of nearby Natura 2000 sites, and so cannot act as a reserve area in case of loss from the main sites.
- 5.5.6. A 24-month construction phase is estimated for the project. Wastewater from the operational phase of the proposed development would discharge to the public network for subsequent treatment. Surface water from the development would drain to the surface water sewer network. Sustainable urban drainage attenuation measures are proposed, alongside an Outline Construction and Demolition Management Plan, including best practice construction site environmental management measures. Ultimately the resultant treated wastewater and surface water from the proposed development and site would discharge to Dublin Bay.
- 5.5.7. The nearest European sites are listed above. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks & Wildlife Services (NPWS) website (www.npws.ie). In determining the zone of influence, I have had regard to the nature and scale of the project, the distance between the appeal site and European sites, and any potential pathways that may exist. The appeal site is not located within or immediately adjacent to any European site, and the project is not necessary to the management of a European site.
- 5.5.8. The River Tolka Estuary is located 2.7km to the southeast of the appeal site. Distances and direction from the site to European sites are listed in Table 1 above. I do not consider that any European Sites, outside of those listed in Table 2 below, could potentially fall within the zone of influence of the project; having regard to the

nature and scale of the development and the distance between the site and the European sites, including intervening open marine waters, or the lack of an obvious pathway to same from the appeal site.

Table 2. European Sites which could possibly be impacted by the development.

Site Name/Code	Qualifying Interests (QIs)/Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species and Wetland & Waterbirds. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf	Yes Weak hydrological connections exist through: Surface water ultimately discharging to Dublin Bay. Wastewater from the site passes through and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.	Yes
North Bull Island SPA 004006	QIs – 17 bird species and Wetland & Waterbirds To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it. To maintain the favourable conservation condition of the qualifying species.		
North Dublin Bay SAC 000206	QIs – 9 coastal habitats and 1 species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf		

5.5.9. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works, and which could have a negative impact on the qualifying interests of European sites, include the following:

- Construction Phase – accidental spillages of hydrocarbons/chemicals to ground or to surface water sewers.
- Operation Phase – discharges to foul or surface water sewers.

Construction Phase

- 5.5.10. Having regard to the information submitted with the application, including the Outline Construction & Demolition Management Plan, pollution sources would be controlled through the use of normal best practice, site management. The proposed construction management measures outlined are typical and well-proven construction and demolition methods; and would be expected by any competent developer, whether or not they were explicitly required by the terms and conditions of a planning permission. Furthermore, their implementation would be necessary for a residential development on any site, to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. These practices are not designed or intended specifically to mitigate any potential impact on a European site.
- 5.5.11. There are no surface watercourses on or adjoining the site, based on the topographical survey for the site and the drainage proposals submitted. Uisce Éireann infrastructure maps for the area, submitted as part of the Engineering Assessment, together with current maps of the area, do not identify a watercourse on the site or a culverted water channel. The Engineering Department (Drainage Division) of the Planning Authority does not refer to a culverted stream running through the site, nor has the appellant proposed a connection specifically to a culverted stream. Reference is made to historical Ordnance Survey Ireland mapping, identifying a watercourse, which would ultimately discharge to Dublin Bay at Clontarf, although the precise alignment and discharge point for this watercourse has not been specified. Having reviewed historical mapping for this area, it would appear that a watercourse had run largely outside of the site along the north-eastern boundary, in a position currently marked by the landscaped verge in Beaumont Grove. The topographical survey submitted (Drg. no.1953.PA.002 Revision A) confirms that the location that had been occupied by a watercourse is in an area of marginally lower ground to the appeal site. There is a 1,250mm diameter, concrete, surface-water sewer now indicated within Beaumont Grove. This area will not be subject of substantive development works, as it adjoins the proposed communal open space to the rear of block A; and will be approximately 50m from the proposed undercroft parking area. I am satisfied that, based on the information available and the nature of the development, there is no scientific or factual evidence proving that

the proposed development would impact on a surface-water pipe/culvert, adjacent to the site.

- 5.5.12. Surface-water from the proposed development would drain to the existing public surface-water sewer on Beaumont Grove, which ultimately drains to Dublin Bay coastal waters at Clontarf. According to the Environmental Protection Agency, the water quality of the 'Dublin Bay' coastal waterbody is classified as 'Good' and is 'Not at risk', based on categorisation under the Water Framework Directive.
- 5.5.13. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded, given the absence of a likely pollution source on the site, discharging into the surface-water network, the levels of dilution within the network, the considerable intervening distances, and the volume of water separating the application site from most European sites in Dublin Bay (dilution factor) – this latter dilution factor consideration not applying to the South Dublin Bay & River Tolka Estuary SPA.
- 5.5.14. Survey details provided with the Appropriate Assessment Screening Report do not highlight any qualifying interest species, or other species associated with the conservation objectives of neighbouring European sites, which might use the appeal site or adjoining lands. The development would not increase disturbance effects to birds in Dublin Bay, including during the construction phase – given the separation distance from these sensitive areas, across an extensive urban area. The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

Operational Phase

- 5.5.15. During the operational phase, surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works, to the public surface water sewer system, after passing through an attenuation tank, flow-control 'Hydrobrake' mechanism, and 'Klargester' hydrocarbon interceptor. These are standard SuDS measures in all new-build developments. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded, given the absence of a likely pollution source on the site, discharging into the surface-water network, the levels of dilution within the network, the considerable intervening

distances, and the volume of water separating the application site from most European sites in Dublin Bay (dilution factor) – this latter dilution factor consideration not applying to the South Dublin Bay & River Tolka Estuary SPA in relation to surface water discharge.

- 5.5.16. Wastewater would ultimately be treated at Ringsend Wastewater Treatment Plant (WWTP) and, according to the appellant, the proposed development would result in a loading, equivalent to 357 persons (2.7 persons per apartment unit; and 90 p.e for the community facility). Having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would, in any event, be subject to Uisce Éireann consent, and would only be given where compliance with Environmental Protection Agency licencing, in respect of the operation of the plant was not breached. Notwithstanding this, water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interests relate to habitat distribution and area, as well as vegetation structure and the control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying interests, with regard to the physical structure of the habitats or to the vegetation structure that defines their favourable conservation status.
- 5.5.17. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay, and there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in, or associated with, Dublin Bay, via emissions to water.
- 5.5.18. Whilst acknowledging that the applicant screened in North Bull Island SPA (Site Code: 004006) and North Dublin Bay SAC (Site Code: 000206) for the purposes of appropriate assessment, with respect to potential changes in water quality arising from the construction phase of the proposed development, I am satisfied that this may have been out of an abundance of caution, and that there is no likelihood that pollutants arising from the proposed development, either during construction or operation phases, could reach European sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

In-combination Impacts

- 5.5.19. This project is taking place within the context of greater levels of construction and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes discharging to the Ringsend WWTP. The expansion of the city is catered for through land-use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2022-2028. The Plan has been subject to Appropriate Assessment by the planning authority, which concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on existing municipal foul or surface-water sewers. Whilst this project would marginally add to loadings on the municipal sewer network, evidence shows that negative effects on European sites are not arising. Furthermore, I note that upgrade works have commenced on the Ringsend WWTP extension permitted under ABP PL29N.YA0010 and the facility is currently operating under the EPA licencing regime that was subject to Appropriate Assessment Screening.
- 5.5.20. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner; so as to result in significant negative effects on any European site. I am satisfied that there are no projects which can act in combination with the development, that could give rise to significant effects on European Sites within the zone of influence.

Appropriate Assessment Screening Conclusion

- 5.5.21. The significant distance between the proposed development site and any European Sites, and the very weak and indirect ecological pathways are such, that the proposal would not result in any likely changes to the European Sites that comprise part of the Natura 2000 network in Dublin Bay.
- 5.5.22. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000 (as amended). Having carried out screening for appropriate assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not have a significant effect on European Sites, including European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), and European Site No. 000206 (North Dublin Bay SAC) in view of the

sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.

- 5.5.23. The possibility of significant effects on other European Sites has been excluded, on the basis of objective information. Measures intended to reduce or avoid significant effects on European Sites have not been considered in the screening process.

5.6. EIA Screening

- 5.6.1. An Environmental Impact Assessment (EIA) screening report was not submitted with the application. Class (10)(b) of Schedule 5, Part 2, of the Planning and Development Regulations, 2001 (as amended), provides that mandatory EIA is required for the following classes of development:

- construction of more than 500 dwelling units;
- urban development that would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere. A 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use.

- 5.6.2. It is proposed to construct 99 BTR apartments. The number of units proposed is well below the threshold of 500, noted above. The site has an overall stated area of 0.58ha and is located within an existing built-up area, but not within a 'business district'. The site area is, therefore, well below the applicable threshold of 10ha for other parts of a built-up area. The site accommodates vacant residential and commercial buildings, and is largely surrounded by residential uses. The introduction of a residential development would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage, and the proposed development is not likely to have a significant effect on any European Site. The proposed development would not give rise to waste, pollution or nuisances that differ from those arising from existing housing in the neighbourhood. It would not give rise to a risk of major accidents or particular risks to human health. The proposed development would use the public water and drainage services of Uisce Éireann and Dublin City Council, upon which its effects would be marginal.

- 5.6.3. Having regard to:-

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations, 2001 (as amended);
- the location of the site on lands that are zoned 'Z1' for 'Sustainable Residential Neighbourhoods' providing for residential uses under the provisions of the Dublin City Development Plan 2022-2028, and the results of the strategic environmental assessment of the Dublin City Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC);
- the location of the site within the existing built-up, urban area, which is served by public infrastructure, and to the existing pattern of residential development in the vicinity;
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations, 2001 (as amended);
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended);

I conclude that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an Environmental Impact Assessment Report (EIAR) for the proposed development would not be necessary.

6.0 The Appeal

6.1. Grounds of Appeal

There are both 1st party and 3rd party appeals against the decision to refuse permission.

6.2. 3rd Party Appeal

6.2.1. The appeal from Fred Logue Solicitors, agent on behalf of Hugh Rafferty, received by the Board on 21st July 2022, can be summarised as follows:

- The appellant agrees with the decision of DCC to refuse permission; but considers that the EIA aspect of the decision was unlawful. DCC failed to make an EIA Screening Determination for a sub-threshold development. The application should have been accompanied by an EIAR. The applicant has identified likely significant effects on 2 European Sites and, therefore, submitted an NIS. An EIAR is automatically required where likely significant effects on European Sites are identified. The planning assessment identifies serious negative effects on residential amenity. On this basis, there is a real likelihood of significant effects on the environment.
- There is no basis in the EIA Directive for a preliminary examination on a case-by-case basis. The EIA Directive allows only a case-by-case examination of sub-threshold development to identify significant effects on the environment, i.e. EIA Screening. The provisions of the planning legislation providing for this preliminary examination are, therefore, incompatible with EU law and should not have been applied by DCC; which should have either required the applicant to provide the information for EIA Screening and/or an EIAR.
- DCC has specific local knowledge, data (e.g. SEA monitoring) and experience that is not available to the Board; and any review of the decision by the Board will not have the benefit of this input.
- The development is a material contravention of the Development Plan; notwithstanding that this wording was not used in the departmental reports of DCC.

6.2.2. The appeal is accompanied by the original letter of observation to DCC – wherein the following points of objection are made-

- The development does not meet Development Plan standards to promote and protect residential amenity. The scale, density, height and massing of the development is inappropriate within a low-density area, characterised by two-storey housing.

- The development will result in overlooking of nearby properties from roof terraces and balconies.
- A number of the apartments do not meet the requirements for daylight and sunlight.
- The blocks will result in overshadowing of neighbouring property. The garden of 78 Beaumont Road will be unacceptably overshadowed. No compensatory design solutions have been proposed.
- DCC has not completed a Housing Need and Demand Assessment (HDNA) for this area. The apartment mix is unacceptable. These units will be occupied long-term.
- It will be necessary to demolish the wall on Ellenfield Road, so that the site will be within 10 minutes walking time of a QBC.
- There is inadequate car-parking provided. There is no visitor car-parking.
- Beaumont hospital is further to walk than 500m.
- The number 16 bus route does not serve this site during the morning peak (07.00-09.00) – diverting to the Swords Road. The Bus Connects plan would result in the removal of the number 14 bus route.
- There is a stream culvert (1,250mm diameter) for the Wad River running parallel to block A, on the boundary with Beaumont Grove. This culvert will need to be protected.
- The BTR model does not accord with the requirement for affordable housing for first-time buyers. This type of development does not encourage sustainable communities. The Thornwood BTR scheme is located 30m from this site and is wholly rented by DCC. A second BTR scheme cannot be permitted in such close proximity.
- There is no Part V agreement signed with DCC.
- The additional traffic generated will result in road safety issues. Beaumont Road already experiences high levels of traffic congestion. The development will create a traffic hazard on the slip road.

- The blocks are of poor architectural quality – with a truncated and squat appearance.
- Poor water pressure in the area will be made worse by this development.
- There is a shortage of school places in this area.
- Childcare spaces in the area are over-subscribed.
- BTR schemes in an area result in a loss of property values.
- Residents of Ellenfield Road object to the removal of the boundary wall with this site.
- The developer has been actively purchasing apartments in Gracepark Court – with the intention of getting around the 100-apartment limit.

6.3. 1st Party Appeal

6.3.1. The appeal from Stephen Ward Planning Consultants, agent on behalf of Urban Life (BMD) Ltd; received by the Board on 22nd July 2022, can be summarised as follows:

- Given the need for more housing, the planning authority should have sought additional information, whereby its concerns could have been addressed.
- The Planner's Report of DCC found favour with many aspects of the development.
- Maintaining the two-storey character of this area goes against national, regional and local planning policy; to make efficient use of serviced land. The development will add character to the area. This is an infill, brownfield site.
- The two blocks step down as they approach adjoining development – with the highest elements furthest from adjoining residential units.
- The Apartment Guidelines do not provide for any minimum quantum of floor space to be given over to residential support facilities and residents services and amenities. There are existing services within walking distance of this development. There is a work hub and meeting-room provided on the ground floor of block B – 295sq.m – equivalent to 3sq.m per apartment. In addition, there is a concierge area in block A.

- The application was accompanied by a BTR Justification Report. The development does not seek to avail of any of the relaxations provided for within SPPR 8 – other than dwelling mix. All apartments have open space which meet or exceed the standards for normal apartments. Some 69% of apartments are at least 10% larger than the minimum overall apartment areas provided for at Appendix 1 of the Apartment Guidelines 2020.
- The scheme achieves a dual-aspect ratio of 49% - where SPPR 4 requires that there should generally be a minimum of 33% of dual-aspect units within central and accessible urban locations.
- The Daylight and Sunlight provisions are guidelines and not regulations. There may be design constraints which prevent the guideline requirements being met – including the need to design for streetscape. The original Daylight, Sunlight and Overshadowing Study submitted with the application has been updated in this appeal submission, to take account of the recently-published 3rd edition of the BRE Guide 'Site Layout Planning for Daylight and Sunlight' and newly adopted daylighting standards IS EN17037:2018. Where requirements of the daylight provisions cannot be fully met, this has been clearly identified and a rationale provided, and compensatory design solutions set out. For sunlight, 81% of the living-room windows meet the BRE recommended values for Annual Probable Sunlight Hours, whilst 87% meet the recommended values for Winter Probable Sunlight Hours (as per the 2nd edition); rising to 89% meeting the standard of 1.5 hours sunlight on 21st March (as per the 3rd edition). For the purposes of daylight, BS EN17047:2018 is used. An annex within this document provides target illuminance values for bedrooms, living-rooms and kitchens. When the 1.5% value for kitchen/living/dining areas is used, a 95% compliance target is reached. Method 2 of the IS EN 17037:2018 takes a climate-based approach. Across the development, 98% of the tested rooms achieve the daylight provision targets. This result increases to 100% when BS EN17037:2018 National Annex Method 2 (BRE Guide 3rd edition) is applied.
- Compensatory measures include the creation of a new pedestrian street, and blocks addressing Beaumont Road. There are no north-facing, single-aspect apartments. Some 69% of apartments are at least 10% larger than the

minimum standard. Larger and deeper apartments make it more difficult to achieve the recommended daylight levels. Apartments that fall below the recommended BRE standard, at the ground floor of block A, front onto the new pedestrian street: these units have front door access directly onto the pedestrian/bicycle plaza link. The area will be attractively landscaped. Bedrooms to the rear of these units, facing Beaumont Grove, achieve a higher standard of daylight; but it was felt that it was better to have living areas addressing the pedestrian/bicycle plaza link. SPPR 8 allows for flexibility in relation to provision of private amenity space in BTR developments. However, this flexibility is not availed of. The positioning of balconies is such as to minimise overshadowing. However, it is unavoidable that projecting balconies will have an impact on daylight and sunlight within spaces behind the balconies.

- The site is served by high-frequency buses – approximately every 6 minutes during peak hours. The site is within walking distance (480m) of a Quality Bus Corridor on Swords Road – reached via Ellenfield Park. The Apartments Guidelines 2020, refer to central or accessible sites within five minutes' walk of high-frequency (i.e. 10-minute peak-hour frequency) urban bus services. Parking requirements can, therefore, be relaxed – 40 car spaces and 6 motor-bicycle spaces within this scheme. This is in keeping with the Apartment Guidelines 2020. A strong central management regime will contribute to the capacity to establish and operate shared-mobility measures.
- At present, dilapidated sheds sit on the boundary wall of 9 Ellenfield Road. These are to be demolished, which will improve the amenity of number 9. This house has a large extension to the rear. The garden of the house will now address the podium garden of the development – a significant improvement on the current aspect addressing sheds. Block B is off-set by between 2.67m and 7.68m from this house. The height of the block is reduced to three storeys at this location. Number 23B Ellenfield Road has extremely-restricted rear-garden width. Block A is off-set by between 3.49m and 7.0m. Landscaping is proposed at the gable ends of both blocks.
- Minimal overshadowing will result for properties on Beaumont Gove, Beaumont Road, Ellenfield Road and Glencorp Road. Only one property falls

below the recommended standard with the proposed development in place; with a 17% reduction in the area currently receiving at least 2 hours of sunlight on 21st March.

- Plot ratio is only 1.4.
- Site coverage is 31%.
- Taller buildings have been allowed in many areas of the city.
- Four parking spaces are provided with electricity charging. Ducting will be put in place, so that the remainder of the spaces can be retrofitted for EVs.
- Bicycle-parking provision meets with Apartment Guidelines. Some 20 visitor spaces are provided at the entrance to the site from the slip road. The requirement for one parking space per bedroom and one additional space per two apartments for visitors, is met. Some 129 bedrooms and 50 spaces for visitors = 179; where 184 spaces are provided. Bicycle storage areas within block B are provided with lockers, which can also serve as charging points for electric bicycles.
- A bin-staging area is provided at the entrance to the car-park.
- One-bedroom and studio apartments are not considered to contribute to the requirement for childcare facilities. 70% of the units fall within this category. The application was accompanied by a Childcare Assessment, which concluded that a facility would not be required for this development.
- Parking demand can be controlled by imposing an additional charge for a space, when letting the apartment units. The provision of a Go-Car space will reduce the need for private car-parking. The Management Company will encourage more sustainable modes of transport.
- Details of proposed bicycle stands are now submitted.
- Final bicycle parking layout can be agreed with DCC.
- It is intended that people will be able to bicycle on the new pedestrian/bicycle plaza link.
- The 3.0m wide path through the site, will allow for vehicular access to the electricity sub-station.

- Car-parking space no. 25 is relocated to allow for turning movements.
- The applicant would be willing to accept a condition requiring the preparation of a Road Safety Audit – with issues addressed prior to commencement of development. The extent of road within the site only relates to the car-park.
- There will be a continuous concrete footpath across the entrance to the undercroft car-park- with pedestrian priority. Access to parking will be controlled by a gate/barrier.
- No area of the development is to be taken-in-charge.
- The car-club parking space has been relocated to the undercroft car-park. A letter of support from Go-Car (dated 15th July 2022) is included.
- A service bay is provided where the car-sharing space was previously located – on the slip road.
- The landscaping plan will be amended to ensure that no trees are planted within the required wayleave for the relocated sewers within the pedestrian/bicycle plaza link.

6.3.2. The appeal is accompanied by revised drawings, an Engineering Report (dated July 2022), and a Daylight, Sunlight and Overshadowing Study (dated 21st July 2022).

6.4. **3rd Party Response to 1st Party Appeal**

6.4.1. The response of FP Logue, Solicitors, agent on behalf of the appellant, Hugh Rafferty, received by the Board on 18th August 2022, can be summarised as follows-

- The reasons for refusal are based on three instances of material contravention of the development plan and on one instance of contravention of SPPR 7 of the Apartments Guidelines. The refusal also identifies that the proposal is contrary to SPPR 4 of the Apartments Guidelines.
- The developer has not provided a justification as to why permission should be granted, based on the considerations set out in section 37(2)(b) of the Act. The Board does not have sufficient information, therefore, to grant permission for an application which materially contravenes the development plan.

- The Board lacks jurisdiction to grant permission which contravenes an SPPR; whereas there is a jurisdiction for the Board to grant permission in material contravention of the development plan. Therefore, refusal based on SPPR 7 and/or SPPR 4 binds the Board.
- The applicant takes issues with the decision of DCC not to look for additional information. Rather than making a new application to address the issues, the applicant chose to appeal the decision.
- It is 1.3km to Beaumont Hospital and 2.1km to DCU, on foot. Measurements as the crow flies or to the entrances of these facilities is unrealistic.
- The planning authority has not indicated that only two-storey development is acceptable on this site. The townscape and visual assessment of the development indicated that the height, mass and scale was unacceptable in this location.
- Satisfaction of SPPR 7 is a qualifying condition for consideration of a BTR scheme. There are no specific resident support facilities – confirmed by the Colliers Report provided by the applicant. The nature and extent of the resident services and amenities have to be agreed with the planning authority, having regard to the scale, intended location and market for the proposed development. The Board is not a planning authority, and therefore, cannot agree these facilities. The Board cannot over-ride the lack of agreement between applicant and planning authority in this matter. The planning authority has indicated that there would need to be approximately three times the proposed residential amenity space in the development – which would be impossible to provide without a substantial redesign. The BTR Justification Report, submitted with the application, does not satisfy the requirements of SPPR 7. The Report confuses and conflates resident support facilities with resident services and amenities; which are distinct. The former, relate to the operation of the development; whilst the latter relate to communal activities. The concierge/post-room and bulky storage are resident support and not services and amenities. The Colliers letter is contradictory – and admits that the absence of laundry facilities is exceptional. The intended market for these apartments is not identified; so it is hard to see how specific evidence can be

provided of what resident support facilities and resident services and amenities are required.

- SPPR 4 requires that 50% of units be dual-aspect. This standard should be easily achievable on this site. The 33% standard is not applicable in this area.
- Whilst the applicant has produced a new report in relation to daylight & sunlight, it has not altered the design of the scheme in any way. The applicant has simply conducted an assessment on the latest edition of the BRE standard and a new Irish Standard. The introduction of new BRE Guidelines and a new standard are irrelevant, given that the standards in the Building Height Guidelines have not been relaxed, and still refer to previous versions. The Annex to the British Standard has no application in Ireland, since this Annex is not in the equivalent Irish Standard.
- Only current public transport capacity can be considered – as per the High Court in *O'Neill v An Bord Pleanála* [2020] IEHC 356 – in relation to SPPR 3 of the Building Height Guidelines. There is only the 14 & 16 bus service in the area. The limited service lacks capacity; in particular, the site is not served by the number 16 during the morning peak and the number 14 is due to be cancelled.
- The development is contrary to the Z1 zoning – by reason of negative impact on surrounding property. The 1st party appellant has not addressed the second reason for refusal.

6.5. 1st Party Response to 3rd Party Appeal

6.5.1. The response of Stephen Ward Consultants, agent on behalf of the applicant, received by the Board on 22nd August 2022, can be summarised as follows:

- The appeal makes generalised assertions without any supporting evidence.
- There is no evidence that the development is in material contravention of the Development Plan. DCC did not consider the development to be a material contravention of the Plan. The Board has granted permission for a similar-type development on this site; there have been no changes to the planning policy or development management circumstances affecting the site, since that time.

- The 3rd party appellant has questioned the validity of the extant permission on this site by way of judicial review to the High Court – 2022/174/JR.
- The development does not come close to an EIA threshold by reason of site size or number of units. Preliminary screening for EIA was undertaken by DCC. The PA considered that there would be no likely significant effects on the environment. Impact on a European Site can be adequately addressed by way of a Natura Impact Statement. No evidence has been supplied to show that the development would have an impact on the environment. The 3rd party is attempting to blur the differences between the EIA Directive and the Habitats Directive.
- It is accepted practice to exclude the requirement for an EIAR for a sub-threshold development, based on preliminary examination. Article 4 of Directive 2014/52/EU allows member states to apply both a case-by-case examination and thresholds or criteria set by the member state. Article 103(1)(a) of the Planning and Development Regulations, 2001 (as amended) states- “Where a planning application for sub-threshold development is not accompanied by an EIAR, the planning authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development”. It is only when the planning authority concludes, based on such preliminary examination that there is a significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, it shall, by notice in writing served on the applicant, require the applicant to submit to the authority the information specified in Schedule 7A for the purposes of a screening determination, as set out in Article 103(1)(b)(ii).

6.6. Planning Authority Response

None received.

6.7. Observations

6.7.1. Observations were received by the Board, from the following-

- Patrick Magee, 5 Ellenfield Road – 11th August 2022.

- Bernadette Rogers, 27 Pheasant Walk – 11th August 2022.
- Anne Gavin, 52 Beaumont Road – 14th August 2022.
- O'Neill Town Planning Consultants, agent on behalf of Beaumont Residents Association – 16th August 2022.
- Carol Dempsey, 71 Beaumont Road – 16th August 2022.
- Mary Heffernan, 3 Ellenfield Road – 16th August 2022.
- Róisín Shorthall, TD, Leinster House – 17th August 2022.
- Mark Dawson & Anne Robinson, 31 Glencorp Road – 16th August 2022.
- Finola Davies, 23 Ellenfield Road – 16th August 2022.
- Elaine Brennan, 1 Ellenfield Road – 15th August 2022.
- Kathy Noonan, 31 Ellenfield Road – 16th August 2022.
- Seamus Connolly, 66 Beaumont Road – 16th August 2022.
- Carmel Zea, 590 Westwood Road, Texas, USA, (daughter to residents of 5 Ellenfield Road) – 18th August 2022.
- Paul Sheridan, 175 Griffith Avenue – 18th August 2022.
- Gerry O'Grady, 26 Ellenfield Road – 18th August 2022.

6.7.2. The relevant issues raised, where different to those already raised in the 3rd party appeal, can be summarised as follows:

- The wall at the *cul de sac* on Ellenfield Road provides security for residents: opening it up will result in anti-social behaviour in the area.
- Bus routes in the area are at capacity at present, and will not be able to cope with the additional demand.
- The development will overshadow numbers 9 & 23B Ellenfield Road.
- There is documented evidence of flooding from the Wad River culvert in this area.
- There is insufficient capacity in the sewerage network.

- Size of apartments is inadequate, and offers poor amenity for future occupants.
- There will be overspill of car-parking onto surrounding roads.
- The design-quality of the blocks is insufficient for landmark structures.
- Bus Connects consideration is not relevant – as the proposal is only at plan stage, and may never come to fruition.
- There are no bus lanes on Beaumont Road – so buses get held up in peak-hour congestion.
- Three-bedroom and two-bedroom (four-person) apartments have been sacrificed for more one- and two-bedroom (three-person) units within the scheme. Transient accommodation will not contribute to neighbourhood and community development.
- BTR units will result in a reduction in house prices.
- The public open space provided is incidental, and is not really usable open space.
- No provision for childcare has been made within the development.
- The Development Plan does not identify this site as being suitable for higher-density development. The development will not integrate with the streetscape.
- The blocks break the building line in area.
- There is no infrastructure to cater for the safety of cyclists.
- Trees on site should be retained.
- More larger apartments are needed, if apartment living is to be seen as a long-term option, as elsewhere in Europe.
- There is no need for a new pedestrian link from Ellenfield Road to Beaumont Road. Either road is easily reached via Thatch Road and Glencorp Road or via Shantalla Road.
- There has been no pre-planning consultation with residents.

- Trees at the end of gardens in Glencorp Road will be put at risk if this development proceeds – particularly the undercroft parking.
- Many laneways in the area have had to be closed off because of anti-social behaviour.
- There will be noise and dust created during the construction phase, which will cause nuisance for residents.
- Evening and weekend parking for sports events in Ellenfield Park already causes disruption for neighbours.
- It is not clear if the addresses of the applicant and its agent have been submitted to DCC.
- The legal agreement document (dated 30th March 2021), between Dublin City Council and the applicant is incomplete and inaccurate.
- There is no documentary confirmation of water services from Uisce Éireann.
- Balconies are too small, and do not meet with the required floor areas.
- Daylight and sunlight levels in some apartments do not meet with the minimum requirements.
- The Wad River flooded in 2008 & 2014, necessitating extensive works by the Council to remedy the problems.
- The conclusions of the NIS are inadequate – and full survey work needs to be carried out, to ensure that there will be no adverse effects on European Sites.

6.8. Further Responses

By letter dated 29th August 2022, the Board referred the appeal to the Dublin City Childcare Committee for comment. There was no response received.

7.0 Assessment

The principal issues of this appeal are addressed in the headings below. The 1st party appeal did not make any substantial alterations to the proposed development, and where changes have been suggested, they will be addressed under the relevant heading below. The application was made during the currency of the old

Development Plan; and the assessment, appeals and observations reflect this. Throughout this assessment, I have had regard to the new Dublin City Development Plan 2022-2028 and the Apartments Guidelines. Circular Letter NRUP 07/2022 of the Department of Housing, Local Government and Heritage (dated 21st December 2022), deals, *inter alia*, with amendments to the *Sustainable Urban Housing - Design Standards for New Apartments Guidelines for Planning Authorities (2020)*. This amendment removes Specific Planning Policy Requirements (SPPRs) 7 & 8 of the Apartments Guidelines. The effect of this amendment is that Build-To-Rent (BTR) is no longer a distinct class of development for planning purposes, and that planning standards for BTR development are required to be the same as those for all other generally permissible apartment types. Section 5.0 of the new Apartments Guidelines (2022) continues to recognise BTR development as a valid form of rental accommodation, and sets out typical characteristics; but with no allowable divergence from the minimum standards for apartments generally, which are set out in Sections 3.0 and 4.0 of the Guidelines. This ensures that apartment developments, irrespective of the intended end-user, will be designed to the same minimum standards. Of particular note, is that all current appeals, or planning applications and appeals, that are subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the 2020 version of the Apartments Guidelines, that include SPPRs 7 & 8.

7.1. Development Principles

Development Plan Zoning

- 7.1.1. The site is zoned 'Z1', where BTR use is 'Open for Consideration' within this residential zoning. I am satisfied that the development proposed would provide for a sustainable use of the site, albeit at a more intense scale of development, than the surrounding residential neighbourhood. The house and commercial buildings complex on the site are disused and running to dereliction. They are of no architectural merit, and their removal is acceptable.

Plot Ratio, Site Coverage & Development Density

- 7.1.2. The plot ratio of the development is 1.4 and site coverage is 31%. These are within the 1.0-2.5 indicative plot ratio and below the 45-60% site coverage ranges, normally

allowed for in the Development Plan, on 'Z1' lands, in the 'Outer Employment and Residential Area'.

- 7.1.3. The proposed development would result in a residential density of 171 units per hectare. Table 1, of Appendix 3, of the Plan, indicates density ranges which will, as a general rule, be supported in the city. For 'Outer Suburbs' the range is 60-120 units per hectare. The Appendix goes on to state- "Where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply". There are 10 objectives, as follows – each with a bullet-point list of assessment criteria.

Table 3. Performance Criteria in Assessing Proposals for Enhanced Height, Density & Scale

Objective	Comment
1. To promote development with a sense of place and character.	The design of the scheme does promote a sense of place, which whilst different to what surrounds it, will complement the character of the area and contribute to healthy place-making.
2. To provide appropriate legibility.	The two blocks will address the slip road and Beaumont Road, and it will be evident where the new pedestrian/cycle plaza link lies and where it connects to.
3. To provide appropriate continuity and enclosure of streets and spaces.	The new blocks create a new building frontage onto the slip road and Beaumont Road and satisfactorily define the new pedestrian/bicycle plaza link through the scheme. The width of the pedestrian/bicycle plaza link is appropriate to the heights of the blocks which flank it – stepping down in height from Beaumont Road towards the two-storey houses in Ellenfield Road; and towards the 'Laragh' and 'Ashley' apartment blocks in Gracepark Court.
4. To provide well connected, high quality and active public and communal spaces.	The pedestrian/bicycle plaza link will be for pedestrian and bicycle use only, and will increase connectivity within this area – particularly to Ellenfield Park and bus services on the Swords Road.
5. To provide high quality, attractive and useable private spaces.	Each apartment is provided with a balcony or terrace. The communal private spaces to the rear of the two blocks will be attractive and usable for residents. The communal open space area to the front of block B provides immediate outdoor space

	for those using the community facilities/work hub area. The second-floor roof garden within block A will be directly accessible to roughly half the residents of the block. A play area is provided on the podium area to the rear of block B.
6. To promote mix of use and diversity of activities.	Having regard to the BTR nature of the development and to the limited size of the site, there is no mix-of-use within the scheme. The area is zoned for residential use only. There are shops and services available within easy walking distance (0.2km) beside the Beaumont House pub.
7. To ensure high-quality and environmentally sustainable buildings.	The blocks are of a high-quality, incorporating surface water control measures and shared facilities such as lifts and community facilities/work hub areas.
8. To secure sustainable density, intensity at locations of high accessibility.	This area is well-served by public bus services – both on Beaumont Road and Swords Road. There are peak-hour bicycle lanes on Beaumont Road and the public footpath network of linkages in the area is extensive.
9. To protect historic environments from insensitive development.	This criterion is not relevant to this appeal.
10. To ensure appropriate management and maintenance.	The BTR scheme will be operated by a management company, which will be responsible for maintenance. The BTR model will be for a minimum period of 15 years.

7.1.4. The 1st party grounds of appeal assert that the quantum of development proposed would be acceptable, based on the relevant standards and guidelines, and as the site is accessible and proximate to various public transport services. The 3rd party appellant and observers raise concerns in relation to the quantum of development proposed, asserting that the proposed development would result in over-development of the site and an excessive scale and density of development relative to the surrounding area and its character. The density of the development was not cited in the DCC Notification of decision to refuse planning permission. I am

satisfied that increased density and height can be justified at this location, by reference to the criteria set out at Table 3 of Appendix 3 of the Plan.

- 7.1.5. Planning policy at both national and regional level, seeks to encourage higher densities in appropriate locations. The National Planning Framework seeks to deliver compact urban growth, and National Planning Objectives 13, 27, 33 and 35 of this Framework seek to prioritise the provision of new homes at locations that can support sustainable development, whilst seeking to increase densities in settlements through a range of measures. The site is within the Dublin Metropolitan Area Strategic Plan, as identified in the Regional Spatial Economic Strategy, where consolidation of Dublin city and its suburbs is supported. Section 28 guidance, including the 'Sustainable Residential Development in Urban Areas Guidelines' (2009) (the Sustainable Residential Guidelines), the 'Urban Development and Building Heights, Guidelines for Planning Authorities' (2018) (the Building Heights Guidelines) and the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) (the Apartments Guidelines), provide guidance in relation to areas that are suitable for increased densities. The Sustainable Residential Guidelines promote minimum net densities of 50 units per hectare within 500m walking distance of bus stops and within 1km of light rail/rail stations. The Apartments Guidelines define locations in cities and towns that are suitable for increased densities, with a focus on the accessibility of the site by public transport and the proximity of a site to city/town/local centres or employment locations. The Apartments Guidelines state that 'central and/or accessible' urban locations are generally suitable for small- to large-scale and higher-density development that may wholly comprise apartments. The Apartments Guidelines note that the scale and extent of development should increase in relation to proximity to core urban centres and public transport, as well as employment locations and urban amenities.
- 7.1.6. The site is 0.2km from a designated local neighbourhood centre on Shantalla Road (opposite Beaumont House pub); within 0.5km of the entrance to Beaumont Hospital – a significant employment centre; within 1.2km from the significant employment centre of Omni Park Shopping Centre (assuming access to the site via Ellenfield Road); and 1.6km from Dublin City University (with or without the Ellenfield Road access to the site). The nearest bus stops are located on Beaumont Road in front of the site (outbound); and 75m to the northeast and to the south of the site (inbound):

served by Dublin Bus routes 14 & 16; connecting with the city centre and other amenities. At present, according to the respective bus timetables, these nearest bus stops feature services at least every 10-15 minutes during peak hours, when considered together – notwithstanding that they serve the city centre via different routes (Malahide Road and Drumcondra Road respectively). The reliability of the traffic and transport information provided with the application has been questioned, asserting that there are constraints in the service capacity and access to public transport in the vicinity. I confirm that the number 16 bus service does serve Beaumont Road during the morning peak (where only every second bus diverts onto the Swords Road). I am satisfied that the information available reveals that the site is within walking distance of significant employment centres and high-frequency urban bus services and is, therefore, within a ‘Central and Accessible Urban Location’ based on the definitions provided within the Apartments Guidelines.

- 7.1.7. Given the site’s strategic location within the M50 motorway corridor, its proximity to high-frequency bus services and to employment centres, as well as connectivity with higher-order urban services and facilities, I am satisfied that the site can sustainably support a higher-density development, such as is proposed. The density is appropriate to this location, given the need to deliver sufficient housing units within the Metropolitan Area Strategic Plan, the need to ensure efficient use of land and the maximum use of existing public transport infrastructure. The density proposed complies with the provisions of the Development Plan and Government policy, which seeks to increase densities and, thereby, deliver compact urban growth. Certain criteria and safeguards must be met to ensure a high standard of design; which issues are addressed below.

Development Plan Policy on Quality Housing & Sustainable Neighbourhoods

- 7.1.8. Policy QHSN40 facilitates the provision of Build-to-Rent (BTR) Accommodation within a 500m walking distance of significant employment locations. I would consider that Beaumont Hospital is such a location. The walking distance to the entrance to the hospital grounds is 500m, and this is acceptable. The policy states that there will be a general presumption against large-scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. This development comprises 99 units, and so is in accordance with the policy. The policy further requires that to ensure there are opportunities for a sustainable mix of tenure and long-term sustainable communities, a minimum of 60% of units within any

development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020. In fact, all apartment units meet or exceed the minimum design standards. The policy states that there will be a presumption against the proliferation and over-concentration of BTR development in any one area. In this regard, the application is required to be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site. The BTR Justification Report, which accompanies the application, indicates 4 BTR schemes within 2.5km of the site. The development would not result in the over-concentration of one housing tenure in this area. No Housing Need and Demand Assessment (HDNA) has been carried out by DCC for this area; so it is not possible to determine whether the units provided are exactly what is needed within this area. However, based on the number of houses in the area, the provision of apartment units, will represent a diversification of unit type in the area – notwithstanding the close proximity of apartment units in the Gracepark Court development and within the Thornwood development (on the other side of Beaumont Road).

- 7.1.9. Policy QHSN41 seeks to discourage BTR schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided. A detailed justification has been provided by the applicant by way of the BTR Justification Report. This relies on the site location and context; its good bus transport links; mobility management plan to be put in place; proximity to Beaumont Hospital and neighbourhood shops and facilities; housing need; housing mix in this area; compliance with Apartments Guidelines; and provision of on-site ‘resident support facilities’ and ‘resident services and amenities’. At 99 units, I am satisfied that the scale of development is sufficiently large, to sustain the communal ‘resident support facilities’ and ‘resident services and amenities’ indicated on the drawings submitted. In any event, the proposed development is not seeking to benefit from any of the relaxation in apartment standards allowed for BTR units in the Apartments Guidelines. In this sense, the only difference between this development and another apartment development is the

ownership of units and the provision of community facilities/work hub area and the concierge service.

- 7.1.10. Policy QHSN42 seeks to foster community within a BTR scheme and to encourage its integration into the existing community. The applicant is required to provide an evidence-based analysis, to show that the proposed resident support facilities are appropriate to the intended rental market, having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme will contribute to the sustainable development of the broader community and neighbourhood. Within this development there is a concierge/management area of 21sq.m within block A, and a community facilities/work hub area of 271sq.m (with an additional 20sq.m w.c. area) within block B. This area within Block B is provided with an adjoining external terrace area of 67sq.m – addressing the new pedestrian/cycle plaza link. This 291sq.m community facilities//work hub area equates to just short of 3sq.m per apartment. The Apartments Guidelines, do not provide for any minimum quantum of floor space to be given over to ‘resident support facilities’ and ‘resident services and amenities’.
- 7.1.11. The 3rd party appellant argues that the application has failed to distinguish between ‘resident support facilities’ and ‘resident services and amenities’. SPPR 7(b)(ii) indicates that ‘resident support facilities’ comprise facilities relating to the operation of the development – such as laundry, concierge & management, repair and waste facilities, etc. The inclusion of the waste storage facilities within the blocks would further increase the floor area given over to this type of communal facility. I further note that there are two storage areas for bulky goods on the ground floor of block B (31sq.m and 16sq.m respectively). It is clear that the concierge service area within block A and the bulky storage areas within block B, come within this category of ‘resident support facilities’. In relation to ‘residents services and amenities’, the Guidelines indicate that they include communal facilities for recreational and other activities, including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities etc. It is evident, that the community facilities/work hub space (with its adjoining outdoor terrace), comes within this category of ‘residents services and amenities’.
- 7.1.12. The BTR Justification Report, submitted by the applicant, provides a list of built and permitted BTR schemes in north Dublin, indicating the average residents’ amenity floor space per apartment – where the 3.0sq.m per apartment within the proposed

scheme is above the average. This BTR Justification Report is accompanied by a letter from Colliers Estate Agents, which compares the proposed development with other BTR schemes, in terms of internal amenity space. Section 15.10.1 of the Plan refers to a general guideline of 3sq.m of 'resident support facilities' and 'resident services and amenities' per person being recommended. This would seem to be a particularly onerous requirement. It is not clear how many people will occupy each apartment – as the standard is not per bedspace. It would seem to be unjustifiably inequitable; where the applicant is not seeking any derogation from standards which apply to normal apartments (non-BTR units). The applicant would be required to provide a substantial floor area of communal space, where a similar, non-BTR apartment scheme would be required to provide no such communal space. As the applicant is not seeking any derogation from the Apartments Guidelines standards, it would not be appropriate to apply the 3sq.m per person standard – even if it could be established exactly how many people (adult/child) might occupy each apartment unit.

- 7.1.13. The 3rd party appellant argues that the proposed development contravenes SPPR 7 (reason for refusal 3); and further, that the Board lacks jurisdiction to grant permission which would contravene the Apartments Guidelines. I would contend that the provision of 'resident support facilities' and 'resident services and amenities' is in accordance with SPPR 7 (b) (i) & (ii), particularly where no quantum of floor space is stipulated in the Apartments Guidelines, to either of the two classes for supporting communal and recreational amenities, and where both categories conclude with the word 'etc.' – indicating that the facilities listed within sub-sections (i) and (ii) are not exhaustive lists. Section 5.11 of the Apartments Guidelines states- "While all BTR development will be required to provide satisfactory resident support facilities, the nature and extent of the resident services and amenities may be agreed by the project developer and the planning authority having regard to the scale, intended location and market of the proposed development". I note the word "may" in this section: and that the word "shall" does not appear. The section goes on to state- "The provision of specific BTR amenities to renters will vary and the developer will be required to provide an evidence basis that the proposed facilities are appropriate the intended rental market". The Colliers Estate Agents accompanying letter, is taken to be a justification for the range of 'resident support facilities' and 'resident services and amenities' provided within the development. Whilst I note that the letter refers to the previous scheme on the site (ref. 2569/21), the nature of the

facilities provided are similar. The 3rd party appellant notes the comment in the letter, relating to the absence of communal laundry facilities. Whilst SPPR 7 (b) (ii) does refer to laundry facilities, it is not a requirement of BTR schemes that such a service be made available to tenants. I am satisfied that the proposed development is in accordance with QHSN42, in as far as the exact composition of the future occupation of the blocks can be known.

7.1.14. Policy QHSN42 refers to integration of the scheme into the surrounding community.

I am satisfied that the pedestrian/bicycle plaza link will ensure that, insofar as privacy and security allow, the scheme will be open for those wishing to pass from Beaumont Road to Ellenfield Road. External bicycle parking spaces will be available for use, and the pedestrian/bicycle plaza link is to be landscaped as a public open space area, which will be open to all. There are no facilities within the scheme which could be shared, unless the communal open space might be made available for use by others outside the scheme – but this is a matter for the management company. I am satisfied that the scheme will integrate, to the extent possible, with the surrounding community.

Housing Tenure

7.1.15. Observers argue that a more family-friendly mix of housing should be provided, and point up the absence of any three-bedroom units within the scheme. BTR status has been sought as part of the application. Observers assert that such housing tenure would not be suitable for the area and that it would not meet long-term, local housing needs, as it would serve a transient population and would impact on housing supply. ‘Rebuilding Ireland – Action Plan for Housing and Homelessness 2016’ identifies five pillars for action, including pillar 3 – increasing the output of private housing to meet demand at affordable prices and pillar 4 – to improve the rental sector. The key objective of pillar 4 is addressing obstacles to greater private rented-sector delivery and improving the supply of units at affordable rents. Key actions of this pillar include encouraging BTR residential schemes with additional amenities required to be provided for residents under the terms of the Apartments Guidelines (addressed elsewhere in this Inspector’s Report).

7.1.16. The immediate area is dominated by three- and four-bedroom housing, with some apartments within Gracepark Court and Thornwood. In response to Policy QHSN40 of the Plan, which requires an applicant to show that an over-concentration of BTR

apartments does not exist in the area of a proposed development, the applicant has submitted a BTR Justification Report with the application. The applicant identifies the closest built and permitted BTR developments. An over-concentration of this housing typology is not evident in the immediate vicinity of the appeal site. The applicant has also submitted a proposed covenant or legal agreement with the application, in compliance with SPPR 7(a) of the Apartments Guidelines.

- 7.1.17. There is clear policy supporting the provision of this type of housing, which does not appear to be excessively concentrated in this location, and I am satisfied that the scheme would add to housing options in this area. In the event that the Board is minded to grant planning permission, conditions should be attached to require the submission of a finalised covenant or legal agreement confirming the housing tenure, as well as ownership details and management structures.
- 7.1.18. Given the number of units proposed and the size of the site, the appellant is required to comply with the provisions of Part V of the Planning and Development Act, 2000 (as amended). Section 5.15 of the Apartments Guidelines states, that Part V requirements apply to BTR developments. The applicant has proposed 10 first-floor units within block A, to meet the requirements of Part V of the Act. This total comprises 8 one-bedroom and 2 two-bedroom units. The application is accompanied by a Validation Letter from DCC – in relation to acquiring units on the site. A condition should be attached to any grant of permission to issue from the Board, requiring agreement with the planning authority in relation to Part V.
- 7.1.19. BTR status is sought as part of the application. Therefore, there is no requirement to regulate investment in the proposed units, as apartments are exempt from the restrictive ownership condition based on the 'Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities' (Department of Housing, Local Government and Heritage, 2021).
- 7.1.20. I am satisfied that the proposed development will provide a supply of housing for the future population, as well as facilitating the development of a strong, vibrant and mixed-tenure community in the wider area.

7.2. Layout & Design

The first reason for refusal of permission, refers to the height, scale and massing of the proposed development being excessive. The 1st party appellant has not sought

to amend the proposal to address these issues, as it is asserted that the development would have positive benefits for the area, as well as meeting relevant Development Plan and planning guidance criteria. The majority of the observations to the application and appeal raise concerns regarding the scale and height of the proposed development, relative to the low-rise, established, residential-character of the immediate and surrounding areas.

Site Layout

- 7.2.1. The proposed development would result in the demolition of all existing buildings on site and the construction of two apartment blocks of three- to six-storey height, generally following the alignment of housing along Beaumont Road and Ellenfield Road, and creating a central pedestrian/bicycle plaza link through the site between Ellenfield Road and Beaumont Road, together with landscaped communal amenity areas for residents of the two blocks. Vehicular access to the undercroft car-parking area is proposed directly from the slip road. The communal gardens and amenity areas would be secured by railings and gates.
- 7.2.2. The appellant has provided an Architectural Design Statement – setting forth the rationale for the design, layout and the scale of the proposed development. Section 4.0 of the Architectural Design Statement sets out how the detailed design of the scheme meets the principles of the ‘Urban Design Manual’ (2009). The layout would appear to be largely dictated by the location of existing housing, the provision of a strong urban edge along the slip road, the provision of a pedestrian/bicycle plaza link, the concealing of ancillary facilities, such as car-parking, and the alignment of a services wayleave on the north-eastern boundary. The proposed building lines, addressing the pedestrian/bicycle plaza link, follow the alignment of buildings along Ellenfield Road to the north; whilst the building line along the slip road generally follows the alignment of buildings to the northeast and southwest along Beaumont Road and Gracepark Court (‘Ashley’ apartment block).
- 7.2.3. Observers assert that the linkage to Ellenfield Road should not be provided, as this would change the character of this street and surrounding streets, whilst also serving to increase anti-social behaviour. The applicant provides extensive rationale for the new pedestrian/bicycle plaza link through the site, including the benefits in improving access to recreational facilities within Ellenfield Park, as well as bus services in the

vicinity. The planning authority did not object to this aspect of the proposal, noting that it would increase permeability in the area.

- 7.2.4. The pedestrian/bicycle plaza link would be overlooked by residential properties and, whilst it would clearly increase pedestrian movements through Ellenfield Road, the provision of this route would support Plan policy of increased permeability within the area, as well as supporting the principles contained within the National Transport Authority 'Permeability Best Practice Guide' (2015). The existing paths in the area have capacity to allow for the safe movement of pedestrians and the proposed pedestrian/bicycle plaza link would provide for increased connectivity with other walking routes, as well as the various services in the area. I am satisfied that the provision of this pedestrian/bicycle plaza link would support planning policy and would not be detrimental to the safety and amenities of neighbouring residents, or to the character of the area.
- 7.2.5. I consider the proposed block arrangement to be an appropriate design response for the site, including the stepped building arrangement. There is a clear relationship between the blocks and neighbouring buildings. An hierarchy of open spaces will be overlooked; and a reasonable setback from neighbouring residential properties, closest to the boundaries of the site, is maintained. The Beaumont Road (and slip road) carriageway is between 20m and 30m wide where it fronts the appeal site, and it is along this frontage that the applicant has proposed the tallest elements of the blocks. The layout provides for an urban edge along the slip road and Beaumont Road, promoting increased activity onto this open frontage. Public lighting details have been submitted within a report identifying likely illumination levels, relative to the lighting stands proposed to be used. This would be a matter for the written agreement of the planning authority – particularly in relation to the new pedestrian/bicycle plaza link.

Public Open Space

- 7.2.6. There is a requirement in the Development Plan for 10% of 'Z1-zoned' lands to be provided as meaningful public open space within development proposals. The new pedestrian/bicycle plaza link through the site, and area along the slip road/Beaumont Road frontage, comprises the public open space offering. The 'Site Layout Plan' (Drg. no. 1953-PA-003 Revision B) identifies the public open space area on site – amounting to 1,243sq.m, or approximately 21% of the overall site. The minimum

quantum of public open space is, therefore, achieved. This space will be used by pedestrians/cyclists and emergency vehicles. The area is overlooked by apartments on both sides, and it forms a straight-line connection between Ellenfield Road and the slip road. The exact details, in relation to priority through the public open space area, could be agreed with the planning authority, as part of a Road Safety Audit. It is not intended that the public open space area be taken-in-charge by DCC. Whilst the layout of the space is not in the traditional manner of grassed areas for active amenity, I note that Ellenfield Park is only a short distance from the site – where such active amenity areas are provided. The Parks Biodiversity & Landscape Services section of DCC considered that the public open space provision was acceptable. This area will be available for use by non-residents of the scheme for passive amenity purposes.

Communal Open Space

- 7.2.7. Communal open space for the development is provided within four distinct areas. The principal areas are to the rear of block A (783sq.m) and to the rear of block B (580sq.m) – at podium level above the undercroft car-parking area. In addition, there is a second-floor roof terrace within block A (60sq.m) and a ground-floor terrace area to the front of block B (67sq.m). This gives an overall total of 1,490sq.m – some 24% of the site. This quantum is well in excess of the requirement within the Apartments Guidelines, of 4sq.m for studios; 5sq.m for one-bedroom units; 6sq.m for two-bedroom (three-person) units; and 7.sq.m for two-bedroom (four-person) units – a total requirement for the 99 apartments within the scheme, of 546sq.m. Sedum roof areas, forming part of the SuDS measures for the site, will not be accessible to residents. The roof terrace within block A is located 26.0m from the closest property boundary on Beaumont Grove. Beaumont Grove itself separates block A from the houses on this road. The separation distance, across a public road, is sufficient to ensure that the terrace will not result in any significant degree of overlooking of these properties to the northeast.
- 7.2.8. Section 15.8.8 of the Plan contains a requirement for provision of appropriate playground facilities. In schemes of 25 or more units, small play spaces of 85-100sq.m are considered suitable for toddlers and children up to the age of six. In the design of this scheme, the play area has been placed within the communal open space to the rear of block B, rather than within the public open space area. This issue was not raised as a concern by the planning authority, although it was

considered that separate play areas should be provided both for block A and block B. This would seem to be unduly onerous – particularly where studio and one-bedroom units are not considered suitable for family occupation – leaving only 30 two-bedroom units being possibly occupied by children. In this instance I consider that one such play space is adequate. Residents of the two blocks will have to cross from one to another for concierge services, communal facilities/work hub area, bicycle storage, bulky goods storage and car/motorbicycle-parking. Because of the presence of the pedestrian/bicycle plaza link through the site, it is not possible to provide all amenities and services within one compound. The planning authority expressed concern in relation to the orientation of the communal open space area to the rear of block A (to the northeast of the block). It is assumed that residents will have access to all communal open space areas – some of which may be more or less attractive, depending on time of day/year, level of sunshine, wind and temperature.

Design & Finishes

- 7.2.9. The application is accompanied by an Architectural Design Statement. It has been designed with the 12 criteria of the “Urban Design Manual – A Best Practice Guide”, issued by the Department of Environment, Heritage & Local Government in May, 2009, in mind. Proposed external finishes comprise a variety of pale buff clay bricks, bedded in white mortar. Coloured metal cladding (yellow & brown) and brick-clad framework are utilised. Composite timber/aluminium windows are proposed. Black-painted steel rails and glazing is proposed for balustrades. These external finishes are acceptable. A condition should be attached to any grant of permission, requiring final details of external finishes to be agreed, in writing, with the planning authority, prior to commencement of development.
- 7.2.10. Whilst buildings in the vicinity do not feature extensive brick finishes, the two-storey façade of the ‘Ashley’ apartment block (to the south of block B) has red-brick finish; and there are other houses on Beaumont Road in brick finish. The proposed use of brick would provide a robust, low-maintenance and long-lasting finish to the blocks. The variety of brick finishes and the stepped-block modulation would also break up the bulk of the blocks and reduce the visual impact of the development. There is variety in the scale, and a consistency in the rhythm and proportions of the blocks; which are of contemporary design. The detailing and materials are generally durable and of a high standard, including the hard-landscaping finishes.

7.2.11. It would appear that the northwestern elevations of the blocks (addressing the side elevations of numbers 9 & 23B Ellenfield Road) are unrelieved grey brick. There will be entrance doors at ground level to electricity services within block B. This visual impact is not immediately apparent from the drawings submitted (no.s 1953.PA.203 Revision A and 1953.PA.205 Revision A) owing to the obstructed context provided by landscaping and existing buildings. I would be concerned that three-storey blank gables, with lengths of 18.5m, would not provide an appropriate elevation treatment for the blocks, as they address Ellenfield Road. Whilst the existing houses would, to an extent, reduce visibility of the gable ends to the two blocks, they should be refined to incorporate features such as variable, inset or ornate brick, to break up the overall appearance and expanse of the end walls. A condition could be attached to any grant of permission to issue from the Board, requiring agreement of such detailing with the planning authority. Scope for landscaping along the boundary, to soften the appearance of these gables further, would be limited by virtue of the proposed position of underground services and the need to provide vehicular access to electricity infrastructure within block B.

7.2.12. Drawings submitted do not show any plant on the roofs of the blocks. There is a plant-room located at ground level within block B. There is no indication given of lift over-runs or water storage tanks at roof level. A condition should be attached to any grant of permission in relation to equipment or plant at roof level.

Visual Impact

7.2.13. The Plan does not identify any protected views or landscapes of value in the immediate vicinity. The planning authority's reasons for refusal of permission refer to building heights, scale and massing, detracting from the visual amenities of the area. The 3rd party appellant and the observers raise concerns regarding the visual impact of the development on the character of the area. The applicant asserts that the design of the proposed development would add a fulcrum landmark building of visual interest within the established, low-rise, residential area; and the scale of the development would be appropriate, having regard to the stepped building heights and the immediate context. A Townscape and Visual Impact Assessment (TVIA) and a booklet of photomontages (A3-size) accompanied the application.

7.2.14. I have viewed the site from a variety of locations in the surrounding area. I am satisfied that the photomontages of the development submitted, provide a

reasonably accurate portrayal of the completed development alongside the proposed and maintained landscaping. The following Table 2 provides a summary assessment of the likely visual change, arising from the proposed development, from each of the four, short-range viewpoints assessed in the TVIA.

Table 4. Viewpoint Changes

No.	Location	Description of Change
1	Beaumont Road – 75m northeast of site.	All storeys of block A (six storeys) and block B (six storeys) visible along Beaumont Road, with some screening from semi-mature street trees. I consider the magnitude of visual change to be medium/high in the context of the receiving urban environment.
2	Beaumont Road – 105m south of site.	Upper levels of block B (stepping up to six storeys) visible over landscaping and all storeys to block A (six storeys) visible along Beaumont Road. I consider the magnitude of visual change to be high in the context of the receiving urban environment.
3	Ellenfield Road – 140m northwest of site.	Upper levels of block A (stepping up to six storeys) and block B (stepping up to six storeys) clearly visible over two-storey housing on Ellenfield Road. I consider the magnitude of visual change to be medium/high in the context of the receiving urban environment.
4	Beaumont Grove – 30m east of site.	Short-range view with little discernible difference visible along the streetscape, due to the depth of tree cover within the verge running along Beaumont Grove. I consider the magnitude of visual change to be low in the context of the receiving urban environment.

7.2.15. In the immediate area, the proposed blocks would be most visible from the public realm and the housing along Beaumont Road, within Gracepark Court, Thornwood, Beaumont Grove, Ellenfield Road and Glencorp Road. Intermittent views of the higher building elements would only be available along some stretches of these streets. The development would be viewed from Beaumont Road and Ellenfield Road as a substantial insertion into the streetscape. The appearance of the development, from the viewpoints chosen, would vary depending on whether nearby trees and proposed trees on site were in leaf.

- 7.2.16. The 1st party appeal states that the proposed scale is appropriate; because in developing the site, the maintenance of the low-rise character of the area would not follow planning policy, and as the proposed blocks would contribute positively to the character of the area.
- 7.2.17. The photomontages assessed in the TVIA, are taken from short-range viewpoints only and it would be desirable to have additional unobstructed viewpoints along Beaumont Road, in particular directly fronting the site and at the entrance to Thornwood, which was identified as a key view (3), and also at the entrance to the pedestrian/bicycle plaza link from Ellenfield Road, which was identified as a key view (4) in the Architectural Design Statement which accompanied the application. Whilst the submitted photomontages do not address medium- to longer-range views, such views would nonetheless be limited, due to the minor changes in ground levels, as well as the visual obstructions of built structures and topographical features. Where discernible from long ranges, the proposed development would read as part of the wider urban landscape. The impact on the outlook from neighbouring houses is considered elsewhere within this Inspector's Report.
- 7.2.18. The proposed development represents a substantial increase in height and scale relative to the existing low-rise (two- and three-storey), established, residential developments in the immediate vicinity. I am satisfied that the stepping of the heights from three storeys initially, where closest to neighbouring two- and three-storey buildings, and subsequent increase in height, facing onto the pedestrian/bicycle plaza link, would provide an appropriate response in the transition of proposed building heights. Furthermore, the lower floors onto the slip road respond well to the primacy of the route, and provide a positive contribution to the creation of a new streetscape.
- 7.2.19. Whilst the baseline appearance and condition of the site does not contribute in a positive manner to the appearance of the area; given the developing urban context, planning policy and the zoning for the site, some level of visual change would not be unexpected as part of the redevelopment of the site, including new buildings of greater height than the surrounding buildings. The Architectural Design Statement refers to precedent cases for similar-scale, contemporary buildings, in order to provide some justification for the subject proposals. I note that these do not appear to feature low-rise, residential, urban contexts, or else they relate to much larger development sites. The proposed development would provide some enhancements

and positive impacts to the appearance of the area. I am satisfied that the visual impact of the proposed development, would not be unduly obtrusive or detract from the character of the area; and the visual change arising from the proposed development would be appropriate for the area. The visual impact of the construction phase (including site hoardings, crane, scaffolding will be of limited duration (24 months), and will not impact on the long-term visual amenity of the area.

Block Heights

- 7.2.20. The 3rd party appellant and the observers express concern in relation to building heights. The application and 1st party appeal documentation provides justification for the proposed block heights. The Plan does not contain any blanket height restrictions. Appendix 3 comprises a Height Strategy. The blocks are not considered to be landmark/tall buildings – being less than 50m in height. The existing buildings on the site are stated to have maximum heights of 6-7m. The proposed development ranges from two to six storeys, with a highest stated maximum building height of 22m for each block. The site is not in a location specifically identified in the Development Plan as being suitable for mid-rise or high-rise development.
- 7.2.21. The Building Heights Guidelines state that it is Government policy that building heights must be generally increased in appropriate urban locations. Therefore, there is a presumption in favour of buildings of increased height in town and city cores, and in other urban locations with good public transport accessibility. As outlined above, the proposed development is higher than the prevailing two/three-storey buildings in the area. Section 3.1 of the Guidelines requires planning authorities to apply the following broad considerations when assessing development proposals for buildings that are taller than prevailing building heights in urban areas:
- Does the proposal positively assist in securing NPF objectives of focusing development into key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?
 - Is the proposal in line with the requirements of the Development Plan in force and such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights Guidelines?

- Where the relevant Development Plan or Local Area Plan pre-dates these Guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant Plan or planning scheme does not align with and support the objectives and policies of the NPF?

7.2.22. The proposed development is consistent with Objectives 13 and 35 of the National Planning Framework, which encourage increased scale and densities in suburban settings such as this one. The Plan, and the policies and standards contained therein, post-date the issuing of the Building Heights Guidelines. Therefore, I consider that Table 3 of Appendix 3 of the Plan is the appropriate set of performance criteria against which to assess the proposed development – rather than SPPR 3(a) of the Building Heights Guidelines. This latter provides that where an application for planning permission sets out how a development proposal complies with the criteria in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and the Building Heights Guidelines, then permission for such development can be granted, even where specific objectives of the relevant Development Plan may indicate otherwise. The applicant has provided various statements to set out compliance with SPPR 3(a) of the Building Heights Guidelines, including reference to recently-permitted housing developments of between 18m and 40m height in neighbouring Dublin city areas, as well as statements specifically addressing the proposed block heights within the Planning Report, Architectural Design Statement, Urban Development and Building Heights Report, Townscape & Visual Impact Assessment, and in the 1st party grounds of appeal.

7.2.23. I am satisfied that the proposal positively assists in securing National Planning Framework objectives to focus development into key urban centres, fulfilling targets related to brownfield, infill development and to deliver compact growth in urban centres. I consider that there is no issue, in principle, with the height in terms of compliance with national policy. Therefore, the issue of height should be considered in the context of Table 3 of Appendix 3 of the Plan. There are 10 objectives listed within the table – each with a bullet-point list of performance criteria for assessing height, density and scale. I have elsewhere in this Inspector's Report commented on these objectives in relation to density.

Table 5. Performance Criteria in Assessing Proposals for Enhanced Height, Density & Scale

Objective	Comment
1. To promote development with a sense of place and character.	The visual impact assessment above, concludes that the proposed development will not be unduly obtrusive or detract from the character of the wider area. No protected views, Architectural Conservation Area, or other architectural/visual sensitivities apply at this site. The design of the blocks is distinctive, and the division into two blocks ensures the development will not appear monolithic. Long slab blocks are avoided. This is not a large urban redevelopment site, but it would feature a new pedestrian/bicycle plaza link and public open space, which would contribute positively to place-making.
2. To provide appropriate legibility.	The development makes a positive contribution to the legibility of the area, particularly via the new pedestrian/bicycle plaza link, which would integrate cohesively with the adjoining street network.
3. To provide appropriate continuity and enclosure of streets and spaces.	Block heights and massing are varied, to respond more appropriately to the scale of neighbouring housing units. Block heights, stepping down along the most sensitive boundaries, would provide a reasoned response to the existing built environment. The width of the pedestrian/bicycle plaza link is appropriate to the height of the blocks flanking it – 15.5m at its narrowest point, extending to 20.0m. The development will contribute positively to the appearance of the area, while also providing additional public open space for the neighbourhood. A strong urban edge to Beaumont Road, a key thoroughfare, will be created by the lower floors of the two blocks.
4. To provide well connected, high quality and active public and communal spaces.	The site does not currently contain key public spaces, but will result in the creation of a new pedestrian/bicycle plaza link, which will be at an appropriate scale, overlooked from the apartments and with a sense of enclosure. Pedestrians and cyclists are prioritised. The variety of locations of communal open space will ensure that access to sunlit spaces will be maximised for residents throughout the year.

5. To provide high quality, attractive and useable private spaces.	Communal open space (significantly greater than the minimum required) is provided for each block. The area to the rear of block B is secluded, whilst mature trees on Beaumont Grove will help screen the communal open space for block A. In addition, all units are provided with either terraces or balconies.
6. To promote mix of use and diversity of activities.	The development is residential only – on residentially-zoned land. The communal facilities/work hub area will provide an opportunity for residents to work from home. The mix of unit sizes will expand the available dwelling typologies in the area.
7. To ensure high-quality and environmentally sustainable buildings.	The blocks are of a high-quality, incorporating surface water control measures and shared facilities such as lifts and community facilities/work hub area. Plant is to be located at the ground level of block B. The number of dual-aspect units is in excess of 50%, and can be increased further. I have elsewhere in this Inspector's Report commented on daylight and sunlight for apartment units. Surface water management measures have been proposed.
8. To secure sustainable density, intensity at locations of high accessibility.	This area is well-served by public bus services – both on Beaumont Road and Swords Road. There are peak-hour bicycle lanes on Beaumont Road and the public footpath network of linkages in the area is extensive. Access roads are minimised, and efficient use is made of space – particularly in relation to the undercroft car-park area.
9. To protect historic environments from insensitive development.	This criterion is not relevant to the appeal.
10. To ensure appropriate management and maintenance.	Each block is provided with two lift/stair cores. There is a concierge facility within block A. The BTR scheme will be operated by a management company, which will be responsible for maintenance. The BTR model will be for a minimum period of 15 years.

7.2.24. Having regard to the assessment above, I consider the criteria have been addressed in the planning application, and are appropriately incorporated into the development

proposals and, on this basis, that Table 3 of Appendix 3 of the Plan can be applied. I am satisfied that the transition in the building heights for blocks A & B, which feature six storeys, is appropriate to this site. The development provides for an appropriate design, height and scale, including building modulation, whilst supporting sustainable redevelopment of the site. The development provides a logical, practical and legible response to redeveloping this site, from an urban design perspective, particularly considering the site development constraints and the site context. The development, at the scale proposed, is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

7.3. Impact on Residential Amenity

- 7.3.1. When considering applications for development, including those comprising apartments, the Plan requires due consideration of proposals with respect to the potential for excessive overlooking, overshadowing and loss of sunlight and/or daylight. The first part of the second reason for refusal refers to the positioning of blocks A and B relative to properties in Ellenfield Road, which it considers would result in overbearing impacts for existing residents. The 3rd party appellant and observers raise concerns in relation to the impact of the proposed development on existing gardens and houses, due to overshadowing and overbearing impacts, reduced sunlight and daylight and excessive overlooking, resulting in a loss of privacy.
- 7.3.2. The nearest proposed residential buildings are numbers 9 and 23B Ellenfield Road on the northwest boundary; the two- and three-storey apartment buildings known as 'Laragh' and 'Ashley' to the southwest, in Gracepark Court; numbers 66, 68 & 68A Beaumont Road to the south; numbers 71, 73, 75, 77, 79 & 81 Beaumont Road (opposite the site) to the southeast; numbers 78 & 80 Beaumont Road to the east; and numbers 19, 20, 21, 22 & 22A Beaumont Grove to the northwest. The setback distances of the proposed blocks from the closest elevations of neighbouring properties are annotated on the Site Layout Plan (Drg. no.1953-PA-003 Rev B). Ground levels generally fall slightly, moving eastwards across the site. Proposed

building heights step upwards moving in a southeast direction towards Beaumont Road, with various building heights noted on the drawings submitted.

- 7.3.3. The six-storey element would be the tallest part of block A, with a roof parapet height of 22.0m above immediate ground level; stepping down to 11.0m in height for the three-storey elements on the northeast and northwest elevations. The separation of the three-storey element of block A, adjacent to number 23B Ellenfield Road (a two-storey terraced house), is 3.5m - 7.0m from the house. Number 23B has a two-storey extension to the rear – with a first-floor window directly abutting and overlooking the appeal site. There are no windows within the three-storey gable elevation of block A. The six-storey element would be the tallest part of block B, with a roof parapet height of 22.0m above immediate ground level; stepping down to 11.0m in height for the three-storey elements on the southwest and northwest. The separation of the three-storey element of block B, adjacent to number 9 Ellenfield Road (a two-storey terraced house) is 2.7m - 7.7m. I note that a two-storey commercial building on the appeal site, currently immediately abuts this house, which has a two-storey extension to the rear. The development features a podium communal open space area, above the undercroft car-park; and this structure would be between 2.7m and 3.5m from the northwestern and southwestern site boundaries – lending the car-parking a semi-open aspect on two sides. The gable elevations of the ‘Laragh’ and ‘Ashley’ apartment blocks, which address the appeal site, feature narrow bathroom windows on each floor. The two-storey block would be closest, with a 6.0m separation distance to the three-storey element of block B, whilst the three-storey block is substantially separated from block B.
- 7.3.4. The nearest properties on the other side of Beaumont Road are separated from the six-storey sections of blocks A & B by more than 40.0m. The three-storey section of block A (closest to the northeast boundary with Beaumont Grove) will be separated by 22.7m from the two-storey gable elevation of number 78 Beaumont Road, which does not appear to feature living-room windows, and a minimum setback of 24.5m from its rear garden. Separation distances from the six-storey section of block A to number 78 increase by 4.5m and 6.3m respectively. A stated separation distance of 31.0m would be provided between block A and the bungalow at 22A Beaumont Grove (sometimes referred to as 78A Beaumont Road). The existing mature trees, along the verge of Beaumont Grove, mainly comprising semi-mature Norwegian

maples, are outside the red-line boundary of the site, and will not be impacted by the development. All trees on the appeal site are to be removed.

- 7.3.5. In discussing standards with respect to houses, the Plan refers to the traditional separation distance of 22.0m between the rear of directly opposing two-storey windows, while making provision for this to be relaxed, where it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Whilst not directly applicable in assessing new apartment developments, this traditional standard can be used as a guide in assessing the adequacy of the proposal with respect to potential for excessive direct overlooking between the proposed apartments and rooms of existing residences. Direct overlooking would not arise for the residences to the west, in Gracepark Court, as they do not feature living-room windows facing directly onto the appeal site, nor do they feature private gardens adjoining the appeal site. With a minimum separation distance of 31.0m between proposed upper-floor windows to windows in the nearest residences to the northeast (22A Beaumont Grove) and a minimum separation distance of 24.7m between proposed windows to the nearest rear garden to the northeast (78 Beaumont Road), the guide standard can be achieved.
- 7.3.6. The northwest facing windows in block B would not directly overlook the approximately 45.0m-deep rear gardens of numbers 29-32 Glencorp Road to the west of the site. The three-storey northwest elevation to block B will be a minimum of 2.6m from the boundary with number 9 Ellenfield Road; however, the closest proposed window or balcony facing this property would be the balcony at fifth-floor level of apartment 05-01, which would be 19.0m from the rear garden of number 9. It does not feature side elevation windows overlooking the appeal site. The three-storey northwest elevation of block A would be a minimum of 3.5m from the boundary with number 23B Ellenfield Road; however, the closest proposed window or balcony facing this property would serve apartment 03-01 at third-floor level, which would be 17.0m from the rear garden of number 23B. Number 23B features a window at first-floor level overlooking the appeal site. The closest northeast facing windows or balconies to apartments on the higher levels to block A are an additional 8.0m from number 23B, and approximately 25.0m from this neighbouring property.
- 7.3.7. The layout and orientation of the blocks, including the northeast-facing window and the balcony to apartment 03-01 in block A, provide sufficient and reasonable minimum separation distances, from windows and balconies in the blocks, to

neighbouring properties. A condition could be attached to any grant of permission, to ensure that the sedum roofs would be accessible for maintenance purposes only. Observers raise concerns regarding the potential for overlooking from the roof garden at second-floor level on the northeast side of block A. This roof garden would be 31.0m from the front elevation of number 22A Beaumont Grove and 26.0m from the rear garden of number 78 Beaumont Road. The semi-mature trees on Beaumont Grove, coupled with the substantial separation distances, together with the buffer created by the carriageway, reduce the potential for significant overlooking from the roof garden towards neighbouring properties.

- 7.3.8. The combination of separation distances, decreasing block heights relative to neighbouring residential properties, and the internal layout of the apartment blocks, would all combine to prevent undue overlooking and excessive loss of privacy for existing residential properties.
- 7.3.9. Given that the proposed development clearly exceeds the prevailing two- and three-storey building heights of the area, a key consideration is whether the height, scale and mass of development, and the proximity to neighbouring properties, is such as to render it visually overbearing, where visible from neighbouring properties. The block-height differences and the minimum separation distances are detailed above, including the proposed stepping-down of the blocks to three storeys on the northwestern and southwestern sides, closest to neighbouring houses and apartments. The proposed development would be visible from the private gardens and internal areas of the immediately adjacent residences surrounding the site, particularly from Beaumont Road to the southeast, and would change the outlook from these properties. In conjunction with the visual impact assessment section of this Inspector's Report, I consider that the extent of visual change would be reasonable, having regard to an ever-evolving and restructuring urban landscape. A contemporary development of this nature would not be unusual in this area, owing to the semi-derelict nature of the existing use on the site, and the residential zoning.
- 7.3.10. To address the potential for overlooking, the applicant has avoided windows on the nearest gable-end elevations facing Ellenfield Road properties: this results in two expansive blank gables three storeys in height (11m) and 18.5m in depth. Number 9 features substantial rear projections measuring approximately 10.0m in depth at ground-floor level and 4.0m in depth at first-floor level. The proposed development would not be visible from the rear ground floor windows of number 9 and a maximum

of 5.0m depth of the gable to block B would be visible from the first-floor windows of number 9, which would be approximately 4.5m to the northwest. The applicant has provided Drg. no.1953.PA.602 Rev A to illustrate the field-of-view from the rear garden of number 9. I am satisfied that the existing building at number 9 and the boundary wall would substantially impede views of the proposed gable of block B from the garden and extensive communal open space provided in the northwestern corner of the site, albeit at a raised level and 2.7m from the boundary, would ensure the development would not result in excessive overbearing impacts for residents of number 9 or other properties to the northwest along the adjoining terraces.

7.3.11. Number 23B Ellenfield Road, also features substantial rear projections measuring approximately 4.0m in depth at ground- and first-floor levels. It would be possible to view a maximum of 4.7m depth of the gable of block A, from the rear windows of 23B, which would be over 7.0m to the northwest of this gable elevation. The side elevation window at first-floor level to 23B would be over 5.0m from the three-storey gable of block A. The appellant has also provided a Drg. no.1953.PA.601 Rev A, to illustrate the field-of-view from the rear garden of 23B towards the proposed development. I am satisfied that reasonable separation distances between block A and number 23B are provided in this suburban context. Furthermore, the boundary wall would substantially impede views of the proposed block from the rear garden of number 23B, and the extensive communal open space provided in the northeast corner of the site, would ensure that the development would not result in excessive overbearing impacts for residents of number 23B or other properties to the northwest along the adjoining terrace in Ellenfield Road.

7.3.12. I consider that the proposed development would not be overly-prominent, when viewed from the nearest houses; particularly when considering the worst-case scenarios assessed in detail above. The submitted documents show the interface between proposed blocks and existing buildings revealing, that at all points, an open outlook and sky view would be maintained for neighbouring houses. The modulated form of the blocks, coupled with the setbacks from existing houses, and the intervening proposed and mature screen planting, is such, that where visible from neighbouring properties, the proposed development would not appear excessively overbearing.

Daylight & Sunlight

7.3.13. Appendix 16 of the Plan deals with daylight and sunlight, both within the scheme itself, and its impact on neighbouring properties. Section 3.1 references four key documents that relate to this topic.

- BR 209 (2011) – Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (2nd Edition). This document is referenced in local and national planning policy. It gives clear guidance on how new developments will impact on existing developments in the surrounding area.
- BS 8206-2:2008 – Lighting for Buildings, Part 2: Code of Practice for Daylighting. This standard describes good practice in daylight design. There is significant overlap between BS 8206-2 and BR 209, and they are intended to be applied in tandem. BS 8206-2 was superseded in 2018. It was replaced by BS EN 17037:2018 – Daylight in Buildings. Whilst it has been superseded, the associated and overlapping information within BR 209 has not yet been updated. As such, it retains relevance.
- BS EN 17037:2018 – Daylight in Buildings. In 2018, a new European-wide standard for daylight was introduced; being EN 17037. In the UK, this standard was published as BS EN 17037 and importantly, it contains a national Annex. The national Annex in BS EN 17037 attempts to align the guidance and expectations of the new European standard with the now superseded BS 8206-2. BS EN 17037 does not offer any guidance on how new developments will impact on existing surrounding developments. The minimum daylight provision targets given within the national Annex have relevance.
- IS EN 17037:2018 – Daylight in Buildings. Prior to 2018, Ireland had no standard for daylight. In 2018, the National Standards Authority of Ireland adopted EN 17037 to directly become IS EN 17037. It is important to note that no amendments were made to this document, and unlike BS EN 317037, it does not contain a national Annex. It offers only a single target for new buildings (there are no space-by-space targets – e.g. a kitchen would have the same target as a warehouse or office). It does not offer guidance on how new developments will impact on surrounding existing environments. These limitations make it unsuitable for use in planning policy or during planning applications. BR 209 must still be used for this purpose.

- 7.3.14. The Building Heights Guidelines and the Apartments Guidelines both refer to BR 209 and BS 8206-2. Neither document refers to BS EN 17037 or IS EN 17037. Section 3.6 of Appendix 16 of the Plan states that there is a period of transition at present, during which BS 8206-2 has been superseded, but the relevant guidance within BR 209 has not yet been updated. Thus, both BS 8206-2 and BS EN 17037 have relevance. As such, both for clarity and as an interim measure during this transition period, the planning authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037. If, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence.
- 7.3.15. Section 3.2 of the Building Heights Guidelines, states that the form, massing and height of a proposed development should be carefully modulated, so as to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of the quantitative performance approaches to daylight provision outlined in guides such as BRE 209 “Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice” (2011) and BS 8206-2: 2008 – “Lighting for Buildings – Part 2: Code of Practice for Daylighting”. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative compensatory design solution must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site-specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and/or an effective urban design and streetscape solution. Section 6.6 of the Apartments Guidelines also states that planning authorities should have regard to BRE 209 and BS 8206-2: 2008 standards.
- 7.3.16. The 3rd party appellant and the observers have raised concerns regarding the potential for the development to overshadow and result in excessive loss of light to neighbouring houses/gardens. In assessing the potential impact on light access to neighbouring properties, two primary considerations apply, including the excessive loss of daylight and light from the sky into houses through the main windows to living rooms, kitchens and bedrooms, and the excessive overshadowing of rear gardens to existing houses. Reason for refusal 3 referred to a significant number of the units

having a poor Average Daylight Factor (ADF), but made no reference to any significant impact on surrounding properties in terms of daylight or sunlight.

- 7.3.17. The application was accompanied by a 'Daylight, Sunlight and Overshadowing Study'. The 1st party appeal included a revised 'Daylight, Sunlight and Overshadowing Study'. This Study refers to the fact that a 3rd edition of the BRE guide "Site Layout Planning for Daylight and Sunlight" was published in June 2022. The 1st party appeal made no alterations to the layout or design of the scheme.

Light from the Sky and Sunlight

- 7.3.18. The 1st party appeal Study provides an assessment of the effect of the proposed development on the Vertical Sky Component (VSC) achievable at the most sensitive neighbouring residential windows, as well as the effect on sunlight to gardens and outdoor amenity areas. The BRE guidance on daylight is intended for rooms in adjoining houses, where daylight is required, including living-rooms, kitchens and bedrooms. When considering the impact on existing buildings, criteria is set out in Figure 20 of the Guidelines, and can be summarised as follows:

- If the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light would be minimal. Should a lesser separation distance be proposed, further assessment would be required;
- If the proposed development subtends an angle greater than 25° to the horizontal, when measured from the centre-line of the lowest window to a main living-room, then further assessment would be required;
- If the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum.
- If the VSC, with the development in place, is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight.
- In the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

- 7.3.19. The tests above are a general guide only; and the BRE guidance states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents, and to mitigate the worst of the potential impacts for existing residents. The guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken, cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites, and the need to address impacts on existing residents, as much as is reasonable and practical in the context.
- 7.3.20. Separation distances from existing houses to the proposed blocks would be less than three times the height of the new building above the centre of the main windows, therefore, based on the BRE guidance a detailed daylight assessment is required. The baseline and proposed VSC for 151 windows serving the front of numbers 19-22A Beaumont Grove, the rear and west side of numbers 78, 80, 82, 84, 86 & 88 Beaumont Road, the front of numbers 79 & 81 Beaumont Road, the front and rear of numbers 23B-34 Ellenfield Road, the front of 'Ashley' apartment block and the front and northeast of 'Laragh' apartment block (within Gracepark Court), the rear of houses along numbers 1-9 Ellenfield Road and numbers 26-33 Glencorp Road, and the front of numbers 5-9 Ellenfield Road, are set out in the Study. I am satisfied that the VSC assessment has been targeted to neighbouring windows, rooms and houses that have greatest potential to be impacted, and would be representative of the worst-case scenario.
- 7.3.21. Section 9.2.1 of the Report indicates that only one of the 151 windows (window 15 in number 22A Beaumont Grove) would result in a decrease of 0.78 (as against the referenced 0.8) when the existing baseline and proposed development scenarios are compared. However, the proposed VSC for this window would still remain at 29.26%, which is above the reference value of 27% applied in the BRE guide. Therefore, the level of change in VSC is well within the recommended guidance limits following completion of the proposed development. The Study reveals that 27 of the 151 tested windows would have no change in VSC with the development in place, whilst a significant number would only see a reduction of less than 10%. I am

satisfied that the proposed development would not result in a material reduction in the level of light currently being enjoyed, internally, within these respective neighbouring properties.

7.3.22. The Study has not tested the windows on the rear projections of numbers 9 & 23B Ellenfield Road, or the side elevation of 23B. However, based on a comparison with results of testing for windows in a similar context, on the adjoining respective terraces, I am satisfied that change below the recommended guidance limits would be unlikely to arise for these rear windows. With regard to the first-floor, side elevation window of number 23B, this has the benefit of southern aspect and would be positioned over 5.0m from the facing, three-storey gable of block A. While proposed block A would be likely to impede lighting to some extent to this window, it is not apparent if this would be below the recommended guidance and if the room the window serves is a living-room or if it is served by another window, including the existing rooflights to this property. This window is constructed on the property boundary with the appeal site – and if mirror development were to take place on the appeal site – the window would be blocked completely.

7.3.23. Notwithstanding the potential for one untested window not to meet the guide standard, for the development to potentially have a noticeable effect on lighting to this window, and the absence of testing for the rear of numbers 9 & 23B Ellenfield Road, given the predominance of compliance with the recommended BRE guidance standards, the planning policy objectives requiring efficient use of sites such as this for increased density of residential development, and the need to flexibly and sensibly apply the targets and standards in the BRE guide, as well as the discretion offered by section 3.2 of the Building Heights Guidelines and section 6.6 of the Apartments Guidelines, I am satisfied that the lighting impacts arising from the proposed development for neighbouring properties would not be sufficiently adverse, to require amendments to the proposed development.

Loss of Sunlight and Overshadowing

7.3.24. The Daylight, Sunlight and Overshadowing Study provides an assessment of the effect of the proposed development on sunlight levels to the rear gardens of houses 26-33 Glencorp Road, 1-9 and 23B-34 Ellenfield Road, northwest and north of the appeal site, as well as an assessment of the impact on lighting to the rear gardens of numbers 78, 80, 82, 84, 86 & 88 Beaumont Road and 18-22A Beaumont Grove to

the northeast. The BRE Guidance indicates that any loss of sunlight, as a result of a new development, should not be greater than a ratio of 0.8 times its previous value; and that at least 50% of an amenity area should receive a minimum of two hours sunlight on the 21st day of March.

7.3.25. A sunlight/shadowing assessment was undertaken using a three-dimensional model of the proposed development and selected existing neighbouring buildings, with the results shown in tabular and graphical format in the Study. The analysis of 37 private rear gardens revealed, that 2 of the gardens currently do not receive two hours of sunshine over more than 50% of their rear garden private amenity spaces – number 23B Ellenfield Road (28%) and number 80 Beaumont Road (33%). In the case of the former, the house is built in what was the side garden of number 23 Ellenfield Road, is particularly narrow, and has a rear garden shaded by a high wall which divides it from the appeal site. In the case of the latter, the two-storey, semi-detached house on the site casts shadow over a significant portion of what remains of the rear garden. The sunnier end of this rear garden (along with a similar portion of the rear garden of number 78 Beaumont Road) would appear to have been sundered, to form a new site for a single-storey house (22A Beaumont Grove). With the proposed development in place, 34 of the rear garden areas would receive at least two hours of sunlight for 50% of their areas on the 21st day of March. Between 25% and 37% of the rear garden areas of numbers 23B Ellenfield Road and 78 & 80 Beaumont Road would receive at least two hours of sunlight on the 21st day of March. The degree of change in the receipt of sunlight to these rear gardens, from the baseline scenario to the proposed scenario, was calculated as being a ratio of 0.9 for number 23B Ellenfield Road and 0.97 for number 80 Beaumont Road. Therefore, the change in receipt of sunlight would be well within the BRE guidance for these properties. The degree of change in receipt of sunlight to the rear garden of number 78 Beaumont Road, on the 21st day of March, would be at a ratio of 0.68 and, therefore, below the ratio of change set out in the BRE guidance. The applicant asserts that this property would receive good levels of sunlight throughout the year. The graphical images submitted identify areas of the rear garden of number 78 Beaumont Road in receipt of two hours sunlight and the shadow study images would appear to verify reasonable levels of sunlight would be provided to this garden during the summer. Number 22A Beaumont Grove would appear to have been constructed

on part of the rear garden of this house – the sunnier end, which was not overshadowed by the house itself.

- 7.3.26. Having regard to the limited minor impact only to the rear garden of number 78 Beaumont Road, which would continue to be in receipt of two hours of sunlight on the 21st day of March over 37% of its rear garden area, and the predominance of compliance with BRE guidance standards, I am satisfied that the sunlight impacts arising from the proposed development for neighbouring gardens would not be sufficiently adverse to require amendments to the proposed development, particularly having regard to land-use objectives within the Development Plan, strategic planning policy supporting increased densities on urban infill sites such as this one, the flexibility afforded in the BRE 209 guidance, and the discretion offered by Section 3.2 of the Building Heights Guidelines and Section 6.6 of the Apartments Guidelines. I am satisfied that the level of change in sunlight and overshadowing provided for under the BRE guidelines, with respect to neighbouring properties, would be predominantly achieved.

Construction Impacts

- 7.3.27. The 3rd party appellant and observers have raised concerns regarding noise, dust and the control of overspill, construction-related car-parking on neighbouring streets. An Outline Construction and Demolition Management Plan was submitted with the application, including measures to control noise, vibration and dust during the stated 24-month construction phase of the project. On-site parking would be possible during the construction and demolition phase and, according to the applicant, other measures can be put in place to address parking requirements should the need arise. With the proposed reduction, control and monitoring measures to be put in place for the construction and demolition phase emissions, and compliance with the relevant standards, the proposed development would not have substantial impacts on neighbouring residents, and such impacts would be temporary. As would be normal practice, and as is required by the Environmental Health Officer for DCC, a Construction and Environmental Management Plan can be agreed in the event of a grant of planning permission, and I am satisfied that the finalisation of and adherence to such a plan would ensure the management of demolition and construction activity is carried out in a planned, structured and considerate manner, that minimises the impacts of the works on residents and properties in the vicinity.

Anti-Social Behaviour

7.3.28. The 3rd party appellant and observers assert, that the completed development would lead to an increased potential for noise, disturbance, crime and anti-social behaviour. The proposed development would redevelop vacant properties previously used for commercial and residential purposes, for residential use solely and, as such, substantive increases in noise and disturbance would not be likely to arise from the operational phase of the development. Matters relating to criminality and anti-social behaviour are dealt with under different legal codes. I am satisfied that there is no reason to believe that the layout and design of the proposed development could reasonably be considered to result in increased levels of crime or anti-social behaviour in this area, particularly as the design of the scheme provides for extensive passive surveillance of the new pedestrian/bicycle plaza link, and access to communal open space will be restricted to residents of the complex.

Conclusions

7.3.29. Sufficient information has been provided with the application to allow a comprehensive and thorough assessment of the impacts of the proposal on neighbouring residential amenities. I am satisfied that the development will not result in excessive overshadowing or overlooking of neighbouring properties and will not have an excessively overbearing impact, when viewed from neighbouring residential properties. Accordingly, the proposed development would comply with the zoning objective for these lands, as contained in the Plan. The proposed development would not seriously injure the amenities of the area to such an extent, as would adversely affect the enjoyment or value of property in the vicinity. Claims that the development would devalue property in the vicinity have not been substantiated.

7.4. Residential Amenities & Standards

7.4.1. Specific Planning Policy Requirements (SPPRs) 7 & 8 of the Apartments Guidelines, outline requirements for BTR schemes. Under these Guidelines there is greater flexibility than for standard apartments. However, I note that the applicant has not availed of these provisions, and the apartments within this scheme adhere to the general standards for apartments.

Unit Mix

- 7.4.2. Policy QHSN40 of the Plan requires that at least 60% of units must be designed as standard apartments. In this instance, 100% of units are designed as standard. The Plan does not require any particular mix of unit types for BTR schemes – apart from referring to a Dublin City Council Housing Need and Demand Assessment. No such HNDA has been carried out by DCC for this area of the city.

Apartment Standards

- 7.4.3. A schedule of accommodation has been submitted with the application (and with the 1st party appeal), which provides details of apartment sizes, aspect, private open space, room sizes and storage. The scheme avoids north-facing, 'single-aspect' units – although I note that there are some 12 northeast-facing, 'single-aspect' units within the scheme. Section 15.9.3 of the Plan requires that a minimum of 50% of units to be dual-aspect in a suburban setting, such as this one. The application documentation states that 49 of the units are dual-aspect – just one short of the required 50 units (50%). The 3rd party appellant argues this breaches the requirements of SPPR 4 of the Apartments Guidelines; and that whilst not quoted in reason for refusal 3, represents another failure to meet the requirements of the Guidelines; and the Board lacks jurisdiction to grant permission that would contravene a Special Planning Policy Requirement. Whatever the validity of this argument, I contend that 39 units within block A and 21 units within block B are dual-aspect – a total of 60 apartments – well in excess of the 50% requirement. Furthermore, I would consider that residential amenity could be improved if units 03.01, 03.05, 03.09 & 04.03, all within block B, were made dual-aspect, by the insertion of windows within blank gable elevation walls. These insertions would not have any significant impact in terms of overlooking of adjoining property. Even if the applicant's assertion that only 49 units are dual-aspect is accepted, the conversion of 4 additional units to dual-aspect design, as suggested above, would bring the total to 53 – in excess of the 50% required in the Plan. This could be done by way of condition attached to any grant of permission.
- 7.4.4. The minimum size of the apartments proposed: measuring 42.2sq.m for a studio unit; 47.2sq.m for a one-bedroom unit; 69.1sq.m for a two-bedroom (three-person) unit; and 77.1sq.m for a two-bedroom (four-person) unit; would exceed the 37.0sq.m, 45.0sq.m and 73.0sq.m minimum-size, respectively required for studio, one-bedroom and two-bedroom (four-person) units within the Plan. [I note that the Plan does not give a minimum size for a two-bedroom (three-person) unit; whereas the Apartments

Guidelines, at Appendix 1, does give a minimum floor area of 63.0sq.m]. The internal design, layout, configuration and room sizes for each of the apartments, accords with or exceeds the relevant standards that are listed in Appendix 1 of the Apartments Guidelines. Floor-to-ceiling heights of 3.0m for upper-floor apartments and 4.0m for ground-floor apartments, exceed the minimum standards set out in the Apartments Guidelines at 2.7m and 3.0m respectively. These increased floor-to-ceiling heights will help create a feeling of space within units, whilst at the same time assisting in daylighting of units.

- 7.4.5. For BTR schemes, the Apartments Guidelines allow for a relaxation in the internal storage requirements for studios (3.0sq.m), one-bedroom units (3.0sq.m), two-bedroom (three-person) units (6.0sq.m) and two-bedroom (four-person) units (7.0sq.m). However, all units within the scheme comply with the minimum requirements. Additional residents' bulk storage space at ground level within block B (31.5sq.m & 16.2sq.m) in two rooms, is provided. The 10% additional floor space required for the majority of apartments in the Apartment Guidelines is not required to be met for a BTR schemes, but this is achieved for 69% of the apartments. Balcony/terrace sizes and depths meet or exceed the minimum private amenity space standards. The privacy of terraces serving ground-floor apartments within block A is assisted by the provision of landscaped defensible space fronting these terraces, both onto the communal space to the southeast of block A and the pedestrian/bicycle plaza link. No more than 6 apartments per floor would be served by lift/stair cores; which complies with the standard that not more than 12 units per floor be served by a lift/stair core.
- 7.4.6. A minimum separation distance of 15.5m is provided between the directly opposing upper-floor apartments within blocks A and B. This separation distance increases to a maximum of 20.0m further along the pedestrian/bicycle plaza link towards Ellenfield Road. Whilst an increased separation distance would normally be desirable, I am satisfied that this would not be necessary in this case, given the provision of the new pedestrian/bicycle plaza link through the development, which separates opposing blocks A and B, which would generally follow the separation distance established between the opposing houses to the northwest, on Ellenfield Road.

Sunlight & Daylight

7.4.7. A Daylight, Sunlight & Overshadowing Study was submitted with the application. A revised Study was submitted with the 1st party appeal (even though no alterations were made to the proposed layout). The principal difference between the two is the inclusion of a newer standard, as set down in the BRE Guide (3rd Edition) and BS EN 17037/2018. This examines Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH), for all 99 kitchen/living/dining spaces. This test relates to the BRE Guide 2nd Edition and BS 8206:2008. Bedroom spaces were not tested (although obviously included within the two studio units). The BRE Guide recommends that living areas should receive at least 25% of APSH and 5% of WPSH. The original Study submitted, mistakenly omitted one of the 99 apartments – unit 05.02 within block B; which error is rectified in the Study submitted with the 1st party appeal (appearing as window 19 in section 8.3.5 – Block B - View 2). Of the 99 kitchen/living/dining areas tested, the Study reveals that 80 units (80%) meet or exceed the APSH standard, whilst 85 units (85%) meet or exceed the WPSH standard. The Study quotes the BRE 3rd Edition standard of a minimum of 1.5 hours of sunlight exposure on 21st March/September on kitchen/living/dining windows – whereby 88% of units equal or exceed this standard. The inclusion of balconies with some units, and the desire to have living areas oriented onto the pedestrian/bicycle plaza link (particularly at ground level), results in constraints on the design of the scheme, with regard to maximising sunlight penetration to apartments. I note the higher achievement in relation to WPSH at 85% of units. The increased floor-to-ceiling heights (4.0m at ground level and 3.0m at upper levels) will assist in creating an impression of airiness for units which do not meet the minimum standards.

7.4.8. I note the following in relation to units which do not meet the APSH standard-

- Unit 03.01 within block A is 'triple-aspect' and has two separate balcony areas on opposite sides of the block. The kitchen/living/dining area has been oriented to face the pedestrian/bicycle plaza link.
- Units 04.07, 03.09, 02.12 & 01.11 within block B, all face onto the podium-level, open space area to the rear of the block. Their lack of access to sunshine is caused by their orientation and location on the inner angle of the block. This layout of the block is, to a large extent, dictated by the desire to create a building line addressing the link road and the pedestrian/bicycle

plaza link. Unit 04.07 is 'dual-aspect'; I have recommended elsewhere within this report that unit 03.09 can be made 'dual-aspect'.

- Units 04.02, 03.03, 02.04, 01.04, 04.01, 03.02, 02.03, 01.03, 03.01, 02.02, 01.02, 02.01, 01.10 & 05.02 within block B, all have their kitchen/living/dining areas oriented towards the pedestrian/bicycle plaza link (i.e. facing northeast) – although unit 05.02 also faces northwest. Their lack of access to sunshine is largely due to this orientation. I would note that, of the 14 units, seven are dual aspect units, and of these seven, four have two balconies – the second ones facing onto the podium-level, open space area to the rear of the block.

7.4.9. I note that reason for refusal 3, did not make reference to inadequate sunshine penetration for some apartment units. The number of apartment units not meeting the APSH standard is acceptable in this instance, regard being had to the following factors-

- The design constraints in place, in relation to the desire to have the maximum number of units addressing the pedestrian/bicycle plaza link.
- The desirability of creating a new building line on the link road (old Beaumont Road) – particularly as it affects block B.
- The number of units which are dual-aspect, and which benefit from second balconies.
- The increased floor-to-ceiling heights provided within the scheme.
- The orientation of some units onto private communal open space to the rear of block B.
- The number of units within the scheme which exceed the minimum floor areas required in the Plan and the Apartments Guidelines, by at least 10%.

7.4.10. The number of units within the scheme not achieving the WPSH standard is 14. Of these, six receive more than 3.0% - where the standard is 5% of probable sunshine hours. This quantum is acceptable – regard being had to the factors referenced in the subsection above.

7.4.11. Reason for refusal 3 referred to a significant number of rooms in the proposed apartments having unsatisfactory Average Daylight Factor (ADF). The

aforementioned BRE and BS standards recommend that for the main living area, a minimum ADF of 1.5% should be achieved, with 1.0% ADF for bedrooms and a 2.0% ADF for kitchens (these factors pre-supposing supplementary electric lighting). Where kitchen/living/dining areas are combined, the higher ADF for kitchens is recommended for the entire area – 2.0% (from BS 8206-2:2008). Section 10.1.2 of the Study notes that IS EN 17037:2018 does not provide different illuminance targets for different rooms. In the case of residential developments, kitchen, living, dining and bedroom spaces all have the same target daylight provisions. Section 10 of the Study refers to ‘housing and duplex apartments’, which is clearly an error. The BRE Guide states that the advice is not mandatory and that the guide should not be seen as an instrument of planning policy. Section 10.1.1 of the Study notes that when trying to achieve higher-density development and greater building heights, it can be necessary to utilise deep-plan blocks, with ‘single-aspect’ apartments having combined kitchen/living/dining areas (sometimes set behind an in-built balcony); it can be difficult to achieve good levels of daylighting across the whole space. This can be made more difficult where apartments have larger floor areas than the minimum sizes set down in the Plan and/or Apartments Guidelines. Natural lighting is only one of the many factors in site layout design – others may include noise insulation, thermal insulation, energy-efficiency, fire considerations, constructional requirements, privacy and external appearance.

7.4.12. The Study submitted, as part of the 1st party appeal, includes three separate daylight measurements: where the original Study included only one.

- The first is the BRE Guide (2nd Edition) / BS 8206:2008 standard – with kitchen/living/dining areas assessed against a 2% Average Daylight Factor (ADF).
- The second is BRE Guide (3rd Edition) / IS EN 17037:2018 which provides a recommended illuminance for openings in inclined/vertical surfaces; where a target illuminance of 300 lux must be achieved on over 50% of the floor area for over 50% of the available daylight hours, and a minimum target illuminance of 100 lux must be achieved on over 95% of the floor area for over 50% of the daylight hours. The standard does not distinguish between the types of spaces illuminated – and is not, therefore, a specifically residential standard. Neither does it distinguish between room types within a

residential building. This second method of measurement is referred to in tables within the Study as 'Method 2 Assessment'.

- The third is BRE Guide (3rd Edition) / BS EN 17037:2018. The UK target illuminances are 100 lux for bedrooms, 150 lux for living-rooms, and 200 lux for kitchens – contained within a national Annex. Combined kitchen/living/dining areas have 200 lux targets. The BS national Annex notes that within BS EN 17037:2018, the reference minimum target illuminance of 100 lux to be achieved on over 95% of the floor area for over 50% of the daylight hours, need not be applied to residential buildings. This third method of measurement is referred to in tables within the Study as 'Method 2 Assessment – National Annex'. The applicant argues that, as the climate in Ireland is similar to the UK, the targets outlined in BS EN 17037:2018 National Annex could also be applied to dwellings in Ireland.

7.4.13. Section 10.2 of the original Study submitted with the application outlines the assumptions used in the daylight model for the first of the three assessments – BRE Guide (2nd Edition) / BS 8206:2008 – based on 21st September. The results for the second and third - 'Method 2 Assessment', are derived from climate-based daylight modelling (utilising an annual simulation), linking location, shading, climate data (including solar intensity and cloud cover) and building properties (such as glazing transmissivity and reflectance).

7.4.14. Essentially, the standards required within the three different measurements are steadily less onerous. Section 10.3 of the Study gives the results of the three assessments for both blocks A & B. Within the former, 55 kitchen/living/dining windows and 68 bedroom windows were assessed. Within the latter, 44 kitchen/living/dining windows and 56 bedroom windows were assessed. This amounts to 223 windows tested. Results are presented separately for bedrooms and kitchen/living/dining areas, and then aggregated. The results are presented on a pass/fail basis. More detailed results are presented for each room, on a floor-by-floor basis, within each block at Appendix A of the Study. Not surprisingly, daylight improves moving from ground floor up to fifth floor and depending on location addressing the pedestrian/bicycle plaza link or other sides of the blocks.

First Measurement

Within both blocks, only one bedroom out of 124 bedrooms modelled, failed the 1% ADF test. Within both blocks, some 36 kitchen/living/dining areas out of 99 modelled, failed the 2% ADF test. Of the 36 which failed, 14 are within block A and 22 are within block B. If all rooms are added together, 37 of the 223 fail – an aggregate failure rate of 17%.

Second Measurement

Within both blocks, one bedroom out of 124 bedrooms modelled failed the Method 2 Assessment. Within both blocks, some six kitchen/living/dining areas out of 99 modelled, failed the Method 2 Assessment. Of the six which failed, all are located within block B. If all rooms are added together, 7 of the 223 fail – an aggregate failure rate of 3%.

Third Measurement

Within both blocks, no bedrooms modelled failed the Method 2 Assessment – National Annex. Within both blocks, no kitchen/living/dining areas modelled, failed the Method 2 Assessment – National Annex.

7.4.15. Reason for refusal 3 referred to failure of a substantial number of rooms to meet the Average Daylight Factor (ADF) required within the Apartments Guidelines. I would contend that 17% failure (both bedroom and kitchen/living/dining areas) is not significant – notwithstanding that the room types have different target illuminances. This figure rises to 36% failure, if only kitchen/living/dining areas are considered, and bedrooms excluded. Appendix C of the Study submitted with the 1st party appeal notes that if an Average Daylight Factor of 1.5% is used for kitchen/living/dining areas (instead of the 2.0%), then a 95% compliance-rate can be achieved. This is illustrated diagrammatically within the preceding Appendix B. The desire to have kitchen/living/dining areas addressing the pedestrian/bicycle plaza link, where the separation distance between the blocks is between 15.5m and 20.0m, has implications for daylight levels within these spaces.

7.4.16. The Apartments Guidelines refer to compensatory measures, where an applicant cannot fully meet all of the requirements for daylight provisions. Within this scheme, these include-

- 69% of units having floor areas at least 10% greater than the minimum standards required for apartments. Larger floor areas, particularly for

kitchen/living/dining areas, make it more difficult to achieve the recommended daylight levels.

- Larger windows improve the views outwards for residents.
- Communal open space in excess of the Apartments Guidelines is provided – to the extent of 884sq.m.
- 21% of the site is allocated to public open space – where only 10% is required within the Plan.
- Landscaping is provided in front of ground floor units within block A (which receive less daylight), which is a pleasant outlook.
- Increased floor-to-ceiling heights will help create a feeling of spaciousness within units.
- The need to create a high-quality urban streetscape both on the link road and on the pedestrian/bicycle plaza link.

7.4.17. I am satisfied that, having regard to the need to increase density of development on this site, the constraints imposed by the shape of the site itself and its relation to surrounding development, the desire to create a building line on the link road and a pedestrian/bicycle plaza link through the site; the compensatory measures set out in this section are sufficient to offset the potential loss of amenity for future residents of apartments which do not meet with the ADF guidelines set out in the Plan and the Apartments Guidelines. The impact on the residential amenities of future occupants would not be significant, and permission could be granted for this scheme.

7.5. Access, Parking & Transportation

7.5.1. The existing access to the site is from the slip road – which was formerly part of Beaumont Road, before the road was realigned further to the southeast. There is access to Beaumont Road from either end of the slip road section. The junction of Beaumont Road/Beaumont Grove is signal-controlled – providing an opportunity for vehicles to exit the slip road – when traffic on Beaumont Road is stopped by a red light at the junction. This slip road served the house and the commercial operation on the site in the past. It also serves as access to the apartment blocks within Gracepark Court. The access to those apartments is standard, whereby pedestrians

have priority on the pavement. The same access arrangement is proposed for the appeal site. Access to the undercroft parking area will be across the footpath – where pedestrians will have priority. This is indicated on revised drawings submitted with the 1st party appeal documentation. Access to the undercroft area will be controlled by gates or a barrier. Sight-distance is good in either direction at the proposed access – on the outside of a shallow arc. There are no trees located within the footpath area to restrict visibility. The Transportation Planning Division of DCC had no concerns in relation to traffic safety – other than requiring the submission of a Road Safety Audit. The applicant has indicated a willingness to submit such; and a condition could be attached to any grant of permission requiring submission of same, prior to commencement of development.

- 7.5.2. The development provides for a community facilities/work hub space within block B, which may lead to a reduction in peak hour travel, where residents are facilitated to work remotely from this dedicated area.
- 7.5.3. The creation of a new pedestrian/bicycle plaza link between Beaumont Road and Ellenfield Road is welcome – increasing permeability in this area. In particular, it will facilitate the connection of this section of Beaumont Road, Thornfield and Beaumont Grove with the attractive green area and sports facilities at Ellenfield Park. It will also facilitate access to bus services on Beaumont Road and Swords Road. I note that the numbering of houses on Ellenfield Road is indicative of an intention in the past to continue housing development from that road into the appeal site – whether or not to connect on to Beaumont Road, is unclear. The Transportation Planning Division welcomed the creation of the pedestrian/bicycle plaza link. Notwithstanding concerns of local residents in relation to anti-social behaviour, I consider the creation of such a pedestrian/bicycle plaza link would be a benefit to future residents of the proposed scheme and to residents of surrounding housing. The pedestrian/bicycle plaza link will not be accessible to cars. The applicant confirmed, by way of 1st party appeal, that this plaza link would be open to cyclists. The exact details of pedestrian and bicycle priority through this pedestrian/bicycle plaza link could be dealt with as part of a Road Safety Audit. It will be accessible to emergency vehicles and to service vehicles for the electricity substation within block B. The applicant has confirmed that the pedestrian/bicycle plaza link will not be taken-in-charge by DCC.
- 7.5.4. The Transportation Planning Division of DCC had concerns in relation to the position of the club-car space on the slip road. The 1st party appeal documentation relocated

this space within the undercroft parking area – and indicated space for an additional two ‘Go-Car’ spaces in the undercroft area. The appeal documentation included a letter from ‘Go-Car’, in relation to provision of such a space within the undercroft area. A drop-off/service bay space is indicated in front of block B, on the slip road, with the existing footpath relocated around the space. Such a space was required by the Transportation Planning Division of DCC.

7.5.5. The Plan requires one bicycle parking space per bedroom and one short-stay/visitor space per two apartments. The scheme has 129 bedrooms within 99 units – giving a requirement for $129 + 50 = 179$ spaces. Provision is made for 40 spaces within block A and 144 spaces within block B – giving a total of 184 spaces. In addition, 10 further short-stay visitor parking spaces are provided in front of each of the two blocks. All of the 184 parking spaces are covered. The Transportation Planning Division of DCC was concerned that adequate parking should be provided for each block. I do not see that this is necessary. Only block A has concierge facilities; whilst only block B contains the community facilities/work hub. Only the area to the rear of block B contains a playground. It is not necessary for each block to be entirely independent – given that the scheme is to be managed as one complex. Bicycle spaces within block B are accessible from both the undercroft parking area and the pedestrian/bicycle plaza link – whilst those within block A are accessible from the pedestrian/bicycle plaza link or the open space area to the rear of the block. The 1st party appeal submission provided details of the ‘double-decker’ bicycle storage system to be installed – an appropriate form of parking/storage where bicycles may not be used on a daily basis. I am satisfied that the arrangements for bicycle access and storage are acceptable.

7.5.6. The Plan indicates a maximum requirement of one car-parking space per apartment within Zone 2 – a maximum of 99 spaces for this development. This requirement is a ‘maximum’ and not a ‘minimum’ standard. The design provides for 40 parking spaces and 6 motorbicycle-parking spaces at undercroft level. Section 4.0 of Appendix 5 of the Plan states that “Parking Zone 2 occurs alongside key public transport corridors”. The planning authority, therefore, considers this site to lie within such a public transport corridor. It further states that, “A relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location”. Applicants must set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on a number

of criteria. The site is located within 500m of the entrance of Beaumont Hospital – a large employer in the area. Beaumont Road is served by high-frequency buses on the number 14 and number 16 routes – linking the site with Artane and Dublin Airport in one direction; and the city centre and beyond to Dundrum and Ballinteer in the other. The pedestrian linkage via Ellenfield Park will render the site within 500m walking of Swords Road – a Quality Bus Corridor. There are peak-hour bicycle lanes in operation on Beaumont Road. The site is within easy walking distance of shops and services, beside the Beaumont House pub at the junction of Beaumont Road and Shantalla Road. Proposals for shared mobility have been put forward as part of this development. The application is accompanied by a Mobility Management Plan – to encourage more sustainable modes of transport for future residents. As the scheme is a BTR one, it will be possible for the owner(s) to control parking demand by imposing an additional charge on tenants who wish to obtain a parking space. Concern has been expressed in relation to overspill of parking onto surrounding streets. There is no parking control on the slip road, Beaumont Grove, Ellenfield Road or Glencorp Road at present. It is open to anybody to park on these streets at present. Most houses/apartments in the area have off-street parking. Should parking in the area become a problem in the future, it is open to residents to petition the Council to institute ‘Residents Only’ parking between certain hours.

- 7.5.7. The undercroft car-parking layout was amended slightly, by way of 1st party appeal submission – to relocate space 25, so as to allow for vehicle turning movements within the allocated circulation space. ‘Swept path’ analysis drawings are included; to show how cars within the undercroft can manoeuvre safely. The drawings submitted show 4 parking spaces will provide electricity charging for EV’s. The 1st party appeal submission has indicated that ducting will be provided, so that all parking spaces can be fitted with electricity charging points in the future, should such be required.
- 7.5.8. The appeal site is served by the number 14 and number 16 Dublin Bus services, which run along Beaumont Road. There are no bus lanes on Beaumont Road. The number 14 has a morning peak service (Monday-Friday) into the city centre at 10-minute intervals. The number 16 has a morning peak service (Monday-Friday) into the city centre at 20-minute intervals. Every second service during the morning peak is diverted from Beaumont onto the Swords Road, due to congestion. Not all number 16 bus services divert onto Swords Road during the morning peak. The Bus

Eireann timetable for the route clearly indicates this [copy included in the photograph pouch which accompanies this Inspector's Report]. At other times during the day the service operates at 12-minute intervals. Combined, these two bus services ensure that the site is connected with the city centre (via Malahide Road and via Drumcondra Road) during the morning peak (07.00-09.00 hours inclusive) with 19 services. The Bus Capacity Survey, carried out on Tuesday 3rd May 2022, indicates that there was capacity on all inbound buses on Beaumont Road and Swords Road between 07.30-09.00 hours. During the morning peak on Monday 31st July 2023, there was no issue with capacity on five inbound number 14 and number 16 services. Not all residents of this scheme will be using the bus service during peak hours – and not all will be heading into the city centre. As already indicated, this site is well connected with Dublin Airport, a major source of employment. I am satisfied that this site is served by a high-frequency bus service, linking it with the city centre.

- 7.5.9. I am satisfied that the applicant has addressed the concerns of the Transportation Planning Division of DCC, by way of 1st party appeal submission. I am satisfied that the development would be acceptable in terms of traffic safety and convenience.

7.6. Water Supply, Drainage & Flooding

7.6.1. Water Supply

The supply of water to the development will come from a 4" cast iron pipe located in the slip road. This watermain will supply apartment units via a bulk meter. It will be used for fire-fighting purposes also (3 hydrants). Demand is estimated at 3.22 litres/second. Water conservation measures will be included within the design of each apartment. A Pre-Connection Enquiry to Uisce Éireann, elicited a response (dated 29th May 2020), that there was capacity in the system to serve the development. There is no significant development in the immediate vicinity, which would indicate that circumstances have changed since that date. The matter of water pressure is for Uisce Éireann, and is not a relevant planning consideration.

7.6.2. Foul Waste

Pipes serving the house and commercial buildings complex on the site will be decommissioned. There is an existing 300mm diameter rising main sewer which encroaches on the northeastern boundary of the site. This rising main is to be left as is. There is an existing 375mm diameter concrete foul sewer traversing the site

within the northeastern boundary. This sewer is to be decommissioned, and replaced with a new 375mm diameter concrete sewer located further to the northeast, within the site boundary. This is to allow for the construction of block A. This sewer will ultimately discharge to a manhole in Beaumont Road. A Pre-Connection Enquiry to Uisce Éireann, elicited a response (dated 29th May 2020), that there was capacity in the system to serve the development. There is no significant development in the immediate vicinity, which would indicate that circumstances have changed since that date.

7.6.3. Surface Water

There is an existing 225mm diameter vitrified clay pipe traversing the site east/west. This pipe is to be decommissioned and replaced with a new 225mm diameter pipe, running between the two blocks along the pedestrian/bicycle plaza link. Surface water from the development is to be attenuated using green roofs (1,138sq.m) – equating to the 70% required by DCC. Surface water is further attenuated within a linear surface water attenuation feature along the northeast side of block B. Surface water discharge will be throttled using an ‘Hydrobrake’ control – limited to 3.07 litres/second. The discharge from the site will be routed through an hydrocarbon interceptor, before ultimate discharge to a 1,250mm diameter public surface water sewer in Beaumont Grove. This sewer is located outside the site boundary – within the public open space or the carriageway on Beaumont Grove. The development will not encroach on this sewer. Surface water from the undercroft will discharge by gravity – with no necessity for pumping. Pipes serving the house and commercial buildings complex on the site will be decommissioned.

7.6.4. Flooding

The flood zone mapping of the Development Plan indicates that the site is neither within Flood Zone A or B, and is not ‘defended’ from flooding. The application is accompanied by a Flood Risk Assessment. The site slopes gently downhill from west to east – there being a fall of approximately 2.0m. The site is not subject to tidal or fluvial flooding – the closest watercourse being the Santry River, some 1.8km to the north of the appeal site. The risk from pluvial flooding downstream of the site is mitigated by the use of SuDS measures, which can store water for the 1:100-year storm event – with a 20% allowance for climate change. There are no recorded instances of flooding on the site from existing drainage. There is a possibility of

groundwater flooding of the undercroft area. Finished floor levels for the blocks are 0.5 and 1.0m respectively above the level of the undercroft floor – which would act as an holding reservoir in the event of groundwater flooding. Failure of drains or blockages could result in on-site flooding – but the risk posed is low. There is a moderate risk of damage to property. The Assessment does not make any reference to the culverted Wad River running along the eastern boundary of the site. However, as this is the lowest part of the appeal site – any surcharging within that culvert would affect the wayleave on either side of the pipeline, and not block A – with finished floor level of 40.5m OD.

7.7. Other Issues

7.7.1. Signage

Details of signage are included with the drawings – one corten steel totem sign, 2.0m high and 0.9m wide – to be located in front of block B. The name ‘Ellenfield Place’ is indicated in large letters at first-floor level on block A. The words ‘Beaumont Community’ are indicated at ground-floor level on block B. This level of signage is reasonable for a residential development such as this one.

7.7.2. Basement/Undercroft

Table 15-1 of the Plan indicates that all developments containing a basement must include a Basement Assessment Impact. The application provides for car-parking within an undercroft area – above which will be a podium communal open space area. This undercroft area is open on two sides. The finished floor level of the undercroft is stated to be 40.0m OD, whilst the two blocks will have finished floor levels of 40.5m and 41.0m OD. The proposed undercroft car-parking area is not, therefore, considered to be a basement.

7.7.3. Naming & Numbering

From drawings submitted, it would seem that a naming scheme has already been settled for this development – Ellenfield Place. Notwithstanding this, a condition should be attached to any grant of permission requiring written agreement of the planning authority to any naming and numbering scheme.

7.7.4. Waste Management

The application is accompanied by an Outline Construction & Demolition Management Plan. All buildings on site are to be demolished. The Air Quality Monitoring & Noise Control Unit of DCC required an Asbestos Survey. Such would be included as part of a detailed Construction & Demolition Management Plan – and is specifically referenced at section 5.8 of the Outline Plan. A condition should be attached in relation to a construction waste and demolition management plan, to deal with the generation, storage and disposal of wastes during the construction phase.

In relation to the operational phase of the development, bin stores are provided at ground level within each of the two blocks – totalling 31sq.m. The Management Company will be responsible for ensuring that waste is separated, stored and collected in an appropriate manner. A bin-staging area is provided just inside the vehicular entrance to the undercroft area on the slip road.

7.7.5. Archaeology

The application is accompanied by an Archaeological Assessment. There are no areas of archaeological potential identified in the vicinity. The calp limestone wall along part of the roadside boundary is the only upstanding item of any significance visible on the site. This structure is in a poor state of repair and will be removed. There would appear to have been a row of cottages on the Beaumont Road frontage of the site at some stage in the past. Having regard to the size of the site and the extent of works proposed, it would be appropriate to attach an archaeological monitoring condition for site-clearance and excavation works, to any grant of permission to issue from the Board.

7.7.6. Public Lighting

The application is accompanied by an Outdoor Lighting Report for the perimeters of blocks, the undercroft area and the pedestrian/bicycle plaza link. No part of the development will be taken-in-charge. Outdoor lighting maintenance will be the responsibility of a Management Company. A condition should be attached to any grant of permission requiring the written agreement of the planning authority to the outdoor lighting scheme, prior to commencement of development.

7.7.7. Childcare & School Capacity

The application was accompanied by a Childcare Demand Assessment. The Childcare Guidelines 2001, recommend the provision of one childcare facility (20

places) for every 75 residential units, unless there are significant reasons not to make such provision. Studio and one-bedroom units are not generally considered to result in any demand for childcare spaces. Some 30 units within the scheme have two bedrooms. The threshold of 75 units is not, therefore met. The Report submitted indicates that there are two existing childcare facilities within a 500m radius of the site.

The application is accompanied by a School Capacity Assessment (undated), which determined that there is adequate capacity in existing local schools to cater for potential demand for places, as a result of this development. Based on the number of two-bedroom apartments within the scheme (30 in total), I would be satisfied that the development would not give rise to any significant demand for school places; in the context of a developed suburb of the city, which is provided with 5 national schools and 6 secondary schools within a 1km radius of the appeal site.

7.7.8. Trees

The site is to be cleared of all trees. There is a stand of semi-mature field maples within the eastern section of the site, which the Parks, Biodiversity and Landscape Services Section of DCC sought to maintain. The construction of block A necessitates the removal of this stand of trees. There are no Tree Preservation Orders on the site, and the development plan does not give any indication of the desire to preserve trees on the site. Semi-mature Norway maples and horse chestnut trees along the boundary of the site with Beaumont Grove are to be retained (they are just outside the site boundary). A temporary fence has been erected along this boundary: it will be replaced by a 1.8m high steel railings. Protection measures will be put in place for these trees during the construction phase. Permission has previously been granted for an apartment development on this site which would have necessitated the felling of these trees.

Replacement tree-planting will be undertaken throughout the site, as illustrated and listed on the Landscape Proposals drawing submitted with the application (6915-L-201 Revision C). Up to 175 new trees are to be planted throughout the site – both within the communal and public open space areas. Detailed work methods are provided in the appellant's Landscape Management and Maintenance Plan (dated March 2021). I am satisfied that, given the status and condition of the trees on site, the proposed protection of trees along the boundary with Beaumont Grove, and the

proposed provision of replacement tree- and shrub-planting, a sustainable approach to redeveloping the site has been outlined, and is satisfactory in the interests of visual amenity.

7.7.9. Consultation

Concerns have been expressed by observers regarding the absence of consultation by the applicant with local residents and groups. As part of this assessment, I have had regard to all observations received by the Board, in considering the acceptability or otherwise of the various aspects of the proposed development. Consultation with neighbouring property interests is not a mandatory requirement for this planning application.

7.7.10. Sound Insulation

The Air Quality & Noise Control Unit of DCC required the submission of an Acoustic Report, in relation to potential noise nuisance from traffic on Beaumont Road. This is an ordinary suburban location; not subject to any specific noise generators. I would not see that such a report is a necessary requirement – given the setback of the blocks from the main carriageway on Beaumont Road. This road is largely flanked by semi-detached housing in this area.

7.7.11. Building Lifecycle & Management

As required by section 6.13 of the Apartments Guidelines, a Building Lifecycle Report (undated), assessing the long-term running and maintenance costs for the development, and demonstrating the measures that have been considered by the applicant to manage and reduce costs, for the benefit of residents, has been included with the planning application. Detailed measures, including sinking fund calculations, as well as running-cost-saving measures, have been provided within this report (based on 2021 estimates). Prior to the lease of individual units, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific Owners' Management Company.

7.7.12. Hours of Construction

Construction hours are indicated as 07.00-19.00 Monday to Friday and 07.00 to 14.00 on Saturdays. 08.00 hours on Saturdays would be more appropriate, in the interest of the residential amenities of the area. A condition should be attached to

any grant of permission to issue from the Board, in relation to these hours of construction.

7.7.13. Ecology

The Appropriate Assessment Screening Report states that there are no large mammals using the site. The Report goes on to state that the likelihood of bats using the site is remote. I note that no surveys were undertaken to investigate whether existing structures, buildings or trees on site were being used by bats. There are no trees of any significant size or age on the site. While the possibility of bats using the site for roosting may be very limited, based on the applicant's observations, I am satisfied that there would be merit in clarifying, via condition in the event of a permission, that any demolition of structures or buildings or felling of trees that support bat populations would have to be carried out under licence from the National Parks and Wildlife Service, and details of any such a licence would have to be submitted to the planning authority. With the attachment of such a condition, I am satisfied that there would not be a significant adverse impact on bat populations as a result of the proposed development.

7.7.14. Sustainability & Energy Efficiency

Policy CA8 of the Development Plan promotes high energy-efficiency standards in new developments, in the interests of climate mitigation. The applicant states that the proposed development would meet the latest energy efficiency standards and nearly zero energy building (NZEB) requirements. An Energy Statement Compliance Report on Part L (dated 27th April 2022), has been submitted with the application, outlining specific mechanical and electrical measures to address energy efficiency, including the possible use of an exhaust air-to-heat pump or a district heating system. There is no proposal to install photovoltaic panels on the roofs or within the grounds. I am satisfied that the information provided with the application indicates that due consideration has been given to energy-efficiency, as part of the design of the development. Further consideration of energy-efficiency would be evaluated under a separate code; including Part L of the Building Regulations.

7.7.15. Restrictive Covenant

Specific Planning Policy Requirement (SPPR) 7(a) of the Apartments Guidelines, refers to applications for BTR units being accompanied by a proposed covenant or legal agreement, to ensure that the development remains as such – for a period of at

least 15 years. The application is accompanied by a suggested covenant in this regard. It would be appropriate to attach a covenant condition to any grant of permission to issue from the Board.

7.7.16. Validity of Application

The validity of the application has been questioned by one of the observers. DCC accepted that the planning application as valid. Reference to a legal agreement document (dated 30th March 2021) being incomplete and inaccurate would appear to refer to a sample covenant in relation to 15-year ownership and management of the BTR scheme. An agreement would have to be drawn up for signing by the developer and DCC, to come into effect from the date of first occupation of a unit within the scheme – not from the date of the planning application or any permission granted.

7.7.17. Trees Within Rear Gardens at Glencorp Road

It has been claimed by observers that the construction of the undercroft car-park will result in damage to trees in rear gardens in Glencorp Road. There is already a high boundary wall between the appeal site and these rear gardens – against which the commercial building on the site is built. The building is to be demolished. The boundary wall is over 4.0m in height (the eaves of the commercial building). The existing ground level in this part of the site is indicated at approximately 42.0m OD. The finished ground level of the undercroft car-park is indicated at 40.0m OD. The limited amount of excavation required will not be significant in terms of impact on adjoining gardens. The applicant will have to provide for the stability of the boundary wall during construction. The podium garden is to be offset from the boundary wall by approximately 2.7m. Part of the intervening area is indicated as being for hedge-planting – although limited access to light would impact on the ability of a hedge to thrive in such a restricted space.

7.7.18. Ownership of Units in Gracepark Court

Whether the developer does or does not own apartment units within Gracepark Court, is of no relevance to this planning appeal.

8.0 Recommendation

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

9.0 Reasons and Considerations

Having regard to the zoning of the site for residential use within the current development plan for the area, the pattern of development in the vicinity, the serviced nature of the site, and the high-frequency bus service in the area; it is considered that, subject to compliance with the attached conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of Built-to-Rent units, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by revised plans and particulars submitted with the appeal on the 22nd day of July 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details, in writing, with the planning authority, prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination

Reason: In the interest of clarity.

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

(a) revised elevation details of the northwest gable ends of blocks A and B, addressing Ellenfield Road, so as to break up their monolithic and unrelieved appearance.

(b) a bedroom window, of not less than 1sq.m, shall be inserted in the northwestern wall of unit 04.03 of block B.

(c) a high-level kitchen/living/dining window, of not less than 1sq.m, shall be inserted in the northwestern wall of unit 03.01 of block B.

(d) a bedroom window, of not less than 1sq.m, shall be inserted in the northwestern wall of unit 03.05 of block B.

(e) a bedroom window, of not less than 1sq.m shall be inserted in the southwestern wall of unit 03.09 of block B.

Revised drawings showing compliance with these requirements 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 increase the number of dual-aspect apartments within the scheme, in the interest of residential amenity.

3. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted, shall remain owned and operated by an institutional entity, for a minimum period of not less than 15 years; and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

Reason: In the interest of the proper planning and sustainable development of the area.

4. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures

proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the BTR model, as authorised in this permission, shall be subject to a separate planning application.

Reason: In the interest of clarity and orderly development.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings, shall be as submitted with the application and appeal, unless otherwise 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.

6. 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 authorised by a further grant of planning permission. Access to sedum roofs shall be for maintenance purposes only.

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

7. Proposals for a development name, apartment-numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. No advertisements or marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of orderly development.

8. Prior to the first occupation of the development, a Mobility Management Strategy (travel plan) shall be submitted to and agreed in writing with the

planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by residents and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

9. The Mobility Management Strategy shall incorporate a car-parking management strategy for the development, which shall address the management and assignment of car spaces to residents over time, and shall include a strategy for any car-share parking. Car-parking spaces shall not be utilised for any other purpose, and shall be assigned and managed in a separate capacity via leasing or permit arrangements, unless subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and in the interest of encouraging the use of sustainable modes of transport.

10. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date.

Reason: To provide for and future-proof the development, such as would facilitate the use of electric vehicles.

11. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann. All development is to be carried out in compliance with Uisce Éireann standards, codes and practices.

Reason: In the interest of public health.

12. a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) 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.
- c) 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.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the hydrocarbon interceptor shall be submitted to and agreed in writing with the planning authority, prior to the first occupation of proposed apartments, and shall be implemented in accordance with that agreement.

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

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces; details of which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development or installation of lighting. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

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. All existing over-ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. The site shall be landscaped, and earthworks carried out, in accordance with the detailed comprehensive scheme of landscaping, including the Landscape Management and Maintenance Plan, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority, prior to commencement of development.

The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs that die or are removed within three years of planting, shall be replaced in the first planting season thereafter. This work shall be completed before any of the apartments are made available for occupation.

Reason: In the interest of residential and visual amenity.

16. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally-constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority, prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. (a) A plan, containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of

these facilities for each apartment, shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for secure communal bin stores for the development, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. Trees to be removed shall be felled in late summer or autumn – outside bird-nesting season and winter (bat hibernation) period. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist. Any envisaged destruction of structures or buildings or removal of trees that support bat populations shall be carried out only under licence from the National Parks & Wildlife Service, and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of nature conservation.

19. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - a) notify the planning authority in writing, at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects', published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

- 21. The construction of the development shall be managed in accordance with a Construction Environmental 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:
 - a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
 - b) Location of areas for construction site offices and staff facilities;

- c) Details of site security-fencing and hoardings;
- d) Details of on-site car-parking facilities for site workers during the course of construction;
- e) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds, to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface-water sewers or drains;

- n) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800-1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

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

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

24. 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.

25. .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.

**Michael Dillon,
Planning Inspectorate.**

15th August 2023