



An
Bord
Pleanála

ADDENDUM REPORT

Inspector's Report

ABP-314161-22A

Development	Demolition and clearance of all buildings and structures on site and the construction of two apartment buildings (Buildings A and B) with balconies to contain a total of 99 apartments. A Natura Impact Statement will accompany this planning application.
Location	Site located at Beaumont Road / Beaumont Grove / Grace Park Court / 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 x 3 No Reasons
Type of Appeal	First & Third Party
Appellant(s)	First - Urban Life (BMD) Ltd. Third - Hugh Rafferty
Observer(s)	Finola Davies Elaine Brennan Bernadette Rogers Carmel Zea

Roisin Shortall TD
Seamus Connolly
Beaumont Residents
Mary Heffernan
Kathy Noonan

Date of Site Inspection

13th August 2024

Inspector

Mary Crowley

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1.0 Introduction

1.1. Planning permission was sought from Dublin City Council on 4th May 2022 for a Build To Rent (BTR) residential development at Beaumont Road / Beaumont Grove / Grace Park Court / Ellenfield Road, Beaumont, Dublin 9. The site includes No. 72 Beaumont Road (D09 YD32) and lands to the rear and adjacent to No. 72 Beaumont Road including the property known as 'Beaumont Drive In' (D09 XR63).

1.2. The proposed development consists of the following:

- demolition and clearance of all buildings and structures on site and
- the construction of two apartment buildings (Buildings A and B) with balconies to contain a total of 99 no. apartments.
- Building A will contain 55 no. apartments and will range in height from 3 storeys to 6 storeys.
- Building B will range in height from 3 storeys to 6 storeys and will contain 44 no. apartments.
- The overall development will comprise a mix of 2no. Studio, 67no. 1-bed and 30no. 2-bed apartments and will be operated as a Build to Rent development with residential amenity rooms and communal open space including a podium garden.
- The development proposed provides for the creation of a non-vehicular link (pedestrian / cycle only link) through the application site from Beaumont Road/Grace Park Court to Ellenfield Road requiring the demolition of part of an existing boundary wall at the southern end of Ellenfield Road (adjacent Nos 9 and 23B Ellenfield Road).
- Vehicular access to the site will be via Grace Park Court and on-site car parking will be provided by way of a car park to the rear of Building B located beneath a podium garden above.
- This planning application includes for signage for the development, the undergrounding of existing overhead lines, a car parking space on Grace Park Court on the public highway intended for use by Go car or similar operator, public and communal open space, roof terrace at second floor of Building A, landscaping,

public lighting, an ESB sub-station and all associated site development works and boundary treatments.

- A Natura Impact Statement accompanied the planning application.

1.3. 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) *The proposed development is considered contrary to Section 16.7 Building Height in a Sustainable City of the Dublin City Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities December (2018) by reason of its excessive height, massing, overall scale and close proximity to site boundaries. The proposed development would therefore, not successfully integrate with existing development in the vicinity, be contrary to Ministerial Guidelines issued to planning authorities under section 28 and would be contrary to the proper planning and sustainable development of the area.*
- 2) *The proposed development by reason of its height, scale, massing and proximity to the site boundaries would adversely impact on the amenities of existing adjacent properties by way of overbearance when viewed from existing residential properties in the immediate area, particularly on Ellenfield Road. The proposed development would be contrary to the Z1 zoning objective of the subject site 'To protect, provide and improve residential amenities', would seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*
- 3) *The proposed development would provide a substandard level of residential amenity for future occupants of this proposed Build to Rent residential scheme. The scheme is considered seriously substandard with regard to the overall quality and quantity of the Residential Support Facilities and Residents Services and Amenities proposed, and the access to the communal open space proposed from Block A. Furthermore, a significant number of the proposed units are unsatisfactory in terms of average daylight factor. The future residents will not enjoy an overall enhanced standard of amenity. The proposed development would therefore, be contrary to the requirements of the Design Standards for New Apartments 2020 including SPPR 7, the Dublin City Development Plan 2016-2022, and the proper planning and sustainable development of the area.*

- 1.4. The decision by DCC was appealed by both the first party and a third party in July 2022. The details of same are set out in Section 6.0 of the previous Inspectors report. As documented the planning application was made in May 2022 when the previous Dublin City Development Plan 2016-2022 was in operation and the local authority planning assessment, appeals and observations reflect this. However, the previous Inspector's assessment had regard to the new Dublin City Development Plan 2022-2028 only, as the new plan came into effect on the 14th December 2022. The previous Inspector in their report of August 2023 recommended that the decision of DCC to refuse permission be set aside and permission granted subject to conditions as set out in their report.
- 1.5. The submissions on the appeal file together with the Inspectors report and recommendation were considered at a Board meeting held on the 13th November 2023. The Board decided to defer consideration of this case and to issue a Section 137 notice to all parties as follows:

"The Board noted that since the receipt of the appeals and responses to same, including observations on the appeals, that the Dublin City development Plan 2022 – 2028 has come into effect.

In this regard, the Development Plan now in effect includes new policy and Development Management provisions as they relate to matters including height, density ranges, build to rent developments and sunlight and daylight.

You are therefore invited to provide a commentary in relation to the considerations outlined above as they relate to the subject appeal, or any other Development Plan matters you may consider of relevance".

- 1.6. The Board requested that any responses received were to be circulated to all parties including the observers.
- 1.7. Accordingly, An Bord Pleanála issued correspondence dated the 14th November 2023 in accordance with Section 137 of the Planning and Development Act 2000 (as amended). In response to this Section 137 request detailed responses were received from the following parties:
- 1) Applicant - Stephen Ward Town Planning on behalf of Urban Life (BMD) Ltd
 - 2) Appellant - FP Logue Solicitors on behalf of Hugh Rafferty
 - 3) Finola Davies, 23 Ellenfield Road, Whitehall, Dublin 9 (observer)

- 4) Elaine Brennan, 1 Ellenfield Road, Whitehall, Dublin 9 (observer)
- 5) Bernadette Rogers, 27 Pheasant Walk, Collins Avenue, Dunmore Road (observer) Waterford City (Previous Resident at No 5 Ellenfield Road) (observer)
- 6) Carmel Zea, 590 West (observer)wood Road, Lockhart, Texas 78644, USA (observer)
- 7) Rosin Shortall TD (observer)
- 8) Beaumont Residents' Association / O'Neill Town Panning (observer)
- 9) Seamus Connolly, 66 Beaumont Road, Whitehall, Dublin 9 (observer)

1.8. On the 18th December 2024, under Section 131 of the Planning and Development Act 2000 (as amended) the above submissions were cross circulated to relevant parties. In response to this S131 request further detailed responses were received from the following parties:

- 1) Applicant - Stephen Ward Town Planning on behalf of Urban Life (BMD) Ltd
- 2) Appellant - FP Logue Solicitors on behalf of Hugh Rafferty
- 3) Bernadette Rogers, 27 Pheasant Walk, Collins Avenue, Dunmore Road (observer) Waterford City (Previous Resident at No 5 Ellenfield Road) (observer)
- 4) Carmel Zea, 590 West (observer)wood Road, Lockhart, Texas 78644, USA (observer)
- 5) Rosin Shortall TD (observer)
- 6) Beaumont Residents' Association / O'Neill Town Panning (observer)
- 7) Mary Heffernan, 3 Ellenfield, Whitehall, Dublin
- 8) Kathy Noonan, 31 Ellenfield Road, Whitehall, Dublin 9

1.9. **NOTE:** The following report sets out relevant sections of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (which replaced the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)) and which have come into effect since receipt of this appeal in June 2022 together with relevant sections of the Dublin City Development Plan 2022-2028, followed by a summary of all submissions.

2.0 Section 28 Ministerial Guidelines

- 2.1.1. The **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities** (2024) set out the policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.
- 2.1.2. These Guidelines replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued as Ministerial guidelines under Section 28 of the Act in 2009, which in turn replaced the Residential Density Guidelines issued in 1999. They build on and update previous guidance to take account of current Government policy and economic, social and environmental considerations. There is a renewed focus in the Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth
- 2.1.3. The Specific Planning Policy Requirement of these guidelines are as follows:
- **SPPR 1 - Separation Distances** It is a specific planning policy requirement of these Guidelines that statutory development plans¹⁵ shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms¹⁶ at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.
- In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy

a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

This SPPR will not apply to applications made in a Strategic Development Zone until the Planning Scheme is amended to integrate changes arising from the SPPR. Refer to Section 2.1.2 for further detail

- **SPPR 2 - Minimum Private Open Space Standards for Houses** It is a specific planning policy requirement of these Guidelines that proposals for new houses meet the following minimum private open space standards:

1 bed house 20 sq.m

2 bed house 30 sq.m

3 bed house 40 sq.m

4 bed + house 50 sq.m

A further reduction below the minimum standard may be considered acceptable where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50 percent of the area being provided as private open space (see Table 5.1 below). The planning authority should be satisfied that the compensatory semi-private open space will provide a high standard of amenity for all users and that it is well integrated and accessible to the housing units it serves.

Apartments and duplex units shall be required to meet the private and semiprivate open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates).

For building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.

In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity.

This SPPR will not apply to applications made in a Strategic Development Zone until the Planning Scheme is amended to integrate changes arising from the SPPR. Refer to Section 2.1.2 for further detail

- **SPPR 3 - Car Parking** It is a specific planning policy requirement of these Guidelines that:
 - (i) In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.
 - (ii) In accessible locations, defined in Chapter 3 (Table 3.8) car- parking provision should be substantially reduced. The maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 1.5 no. spaces per dwelling.
 - (iii) In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling

Applicants should be required to provide a rationale and justification for the number of car parking spaces proposed and to satisfy the planning authority that the parking levels are necessary and appropriate, particularly when they are close to the maximum provision. The maximum car parking standards do not include bays assigned for use by a car club, designated short stay on–street Electric Vehicle (EV) charging stations or accessible parking spaces. The maximum car parking standards do include provision for visitor parking.

This SPPR will not apply to applications made in a Strategic Development Zone until the Planning Scheme is amended to integrate changes arising from the SPPR. Refer to Section 2.1.2 for further detail

- **SPPR 4 - Cycle Parking and Storage** It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes

that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors.

The following requirements for cycle parking and storage are recommended:

- (i) Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/ enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers.
- (ii) Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided

3.0 Development Plan

- 3.1. The relevant document is the **Dublin City Development Plan 2022-2028** (hereafter referred to as the new DCDP). 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.
- 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.
- 3.3. Chapter 5 of the Plan deals, amongst other things, with Density and BTR units, and the following policies are of relevance:
- 3.4. **QHSN6 Urban Consolidation** - To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing

housing stock and use of upper floors, subject to the provision of good quality accommodation.

3.5. **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.

3.6. **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.

3.7. **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.

3.8. Chapter 4 of the Plan, deals, amongst other things, with Urban Density and Landmark/Tall Buildings and the following policies are of relevance:

3.9. **SC10 Urban Density** - To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof.

3.10. **SC11 Compact Growth** - In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- enhance the urban form and spatial structure of the city;
- be appropriate to their context and respect the established character of the area;
- include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future
- be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;
- and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.

3.11. **SC14 Building Height Strategy** - To ensure a strategic approach to building height in the city that accords with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and in particular, SPPR 1 to 4.

3.12. **SC16 Building Height Locations** - To recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones,

Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

3.13. **SC17 Building Height** - To protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- follow a design led approach;
- include a masterplan for any site over 0.5ha (in accordance with the criteria for assessment set out in Appendix 3);
- make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context;
- deliver vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;
- Do not affect the safety of aircraft operations at Dublin Airport (including craneage); and
- have regard to the performance-based criteria set out in Appendix 3.

All new proposals in the inner city must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas and civic spaces of local and citywide importance.

3.14. Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City.

3.15. **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.
- **Table 15** - Planning applications should be supported by the necessary analysis and documentation to demonstrate the proposed design and rationale for a scheme. To assist in the planning application preparation, Table 15-1 sets out the development thresholds for some of the documentation related to specific planning applications.

3.16. **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** contains net density ranges that are stated as *"a general rule"* in the city. According to Table 1 the appeal site would be considered as an 'Outer Suburb' where the net density range (units per hectare) should generally be 60-120.
- **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** – All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3. As a general rule, the development of innovative, mixed use development that includes buildings of between 5 and 8 storeys, including

family apartments and duplexes is promoted in the key areas identified below. Greater heights may be considered in certain circumstances depending on the site's location and context and subject to assessment against the performance based criteria set out in Table 3. Key criteria which all proposals for increased urban scale and height must demonstrate include:

- The potential contribution to the development of new homes, economic growth and regeneration in line with the compact urban growth principles set out in the NPF and Project Ireland 2040.
- Proximity to high quality public transport connectivity, including key public transport interchanges or nodes.
- Proximity to a range of employment, services and facilities.
- Provision of adequate social and community infrastructure.
- The availability of good walking, cycling and public transport infrastructure.
- Appropriate mix of uses, housing typologies and tenures.
- The provision of high quality public open space and public amenities.
- The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents.
- That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed.
- Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character.
- Adequate infrastructural capacity.

3.16.1. In accordance with SPPR 1, the following locations are identified as generally suitable and appropriate for accommodating a more intensive form of development, including increased height.

- City Centre and within the Canal Ring (inner suburbs)
- Strategic Development Zones (SDZ's)
- Local Area Plans (LAPs)
- Key Urban Villages

- Former Z6 Industrial Lands
- Public Transport Corridors

3.16.2. **Public Transport Corridors** - There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including:

- Bus connects/Core Bus Corridors (CBC's)
- Luas
- Metrolink
- DART

3.16.3. Development proposals will primarily be determined by reference to the proximity of new public transport infrastructure and to the area character. Locations for intensification must have reasonable access to the nearest public transport stop. In line with national guidance, higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes.

3.16.4. The capacity of public transport will also be taken into consideration in considering appropriate densities and must be demonstrated by the applicant, particularly where such public transport infrastructure is in the pipeline and not yet developed.

3.16.5. Where a proposal for increased height and density is planned adjacent to proposed public transport infrastructure, the applicant must consider appropriate phasing and sequencing of development to ensure that an appropriate scale and intensity of development, coupled with adequate social and physical infrastructure, is delivered in tandem with the delivery of such public transport infrastructure.

3.16.6. It is acknowledged that many sites along such transport corridors are smaller infill sites. Particular regard must be had to ensure that proposals are of a coherent scale and provide a sustainable and viable extension to the existing urban fabric.

3.16.7. 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.

Enhanced density and scale should:

- respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints,
- have a positive impact on the local community and environment and contribute to 'healthy placemaking',
- create a distinctive design and add to and enhance the quality design of the area,
- be appropriately located in highly accessible places of greater activity and land use intensity,
- have sufficient variety in scale and form and have an appropriate transition in scale to the boundaries of a site/adjacent development in an established area,
- not be monolithic and should have a well-considered design response that avoids long slab blocks,
- ensure that set back floors are appropriately scaled and designed.

2) To provide appropriate legibility.

Enhanced density and scale should:

- make a positive contribution to legibility in an area in a cohesive manner,
- reflect and reinforce the role and function of streets and places and enhance permeability.

3) To provide appropriate continuity and enclosure of streets and spaces.

Enhanced density and scale should:

- enhance the urban design context for public spaces and key thoroughfares,
- provide appropriate level of enclosure to streets and spaces,
- not produce canyons of excessive scale and overbearing of streets and spaces,
- generally be within a human scale and provide an appropriate street width to building height ratio of 1:1.5 – 1:3,
- provide adequate passive surveillance and sufficient doors, entrances and active uses to generate street-level activity, animation and visual interest.

4) To provide well connected, high quality and active public and communal spaces.

Enhanced density and scale should:

- integrate into and enhance the public realm and prioritises pedestrians, cyclists and public transport,
- be appropriately scaled and distanced to provide appropriate enclosure/exposure to public and communal spaces, particularly to residential courtyards,
- ensure adequate sunlight and daylight penetration to public spaces and communal areas is received throughout the year to ensure that they are useable and can support outdoor recreation, amenity and other activities – see Appendix 16,
- ensure the use of the perimeter block is not compromised and that it utilised as an important typology that can include courtyards for residential development,
- ensure that potential negative microclimatic effects (particularly wind impacts) are avoided and or mitigated,
- provide for people friendly streets and spaces and prioritise street accessibility for persons with a disability

5) To provide high quality, attractive and useable private open spaces.

Enhanced density and scale should:

- not compromise the provision of high quality private outdoor space,
- ensure that private space is usable, safe, accessible and inviting,
- ensure windows of residential units receive reasonable levels of natural light, particularly to the windows of residential units within courtyards – see Appendix 16,
- assess the microclimatic effects to mitigate and avoid negative impacts,
- retain reasonable levels of overlooking and privacy in residential and mixed use development.

6) To promote mix of use and diversity of activities.

Enhanced density and scale should:

- promote the delivery of mixed use development including housing, commercial and employment development as well as social and community infrastructure

- contribute positively to the formation of a 'sustainable urban neighbourhood'
- include a mix of building and dwelling typologies in the neighbourhood,
- provide for residential development, with a range of housing typologies suited to different stages of the life cycle

7) To ensure high quality and environmentally sustainable buildings.

Enhanced density and scale should:

- be carefully modulated and orientated so as to maximise access to natural daylight, ventilation, privacy, noise and views to minimise overshadowing and loss of light – see Appendix 16,
- not compromise the ability of existing or proposed buildings and nearby buildings to achieve passive solar gain,
- ensure a degree of physical building adaptability as well as internal flexibility in design and layout,
- ensure that the scale of plant at roof level is minimised and have suitable finish or screening so that it is discreet and unobtrusive,
- maximise the number of homes enjoying dual aspect, to optimise passive solar gain, achieve cross ventilation and for reasons of good street frontage,
- be constructed of the highest quality materials and robust construction methodologies,
- incorporate appropriate sustainable technologies, be energy efficient and climate resilient,
- apply appropriate quantitative approaches to assessing daylighting and sun lighting proposals. In exceptional circumstances compensatory design solutions may be allowed for where the meeting of sun lighting and daylighting requirements is not possible in the context of a particular site (See Appendix 16),
- incorporate an Integrated Surface Water Management Strategy to ensure necessary public surface water infrastructure and nature based SUDS solutions are in place – see Appendix 13,
- include a flood risk assessment – see SFRA Volume 7.
- include an assessment of embodied energy impacts – see Section 15.7.1

8) To secure sustainable density, intensity at locations of high accessibility.

Enhanced density and scale should:

- be at locations of higher accessibility well served by public transport with high capacity frequent service with good links to other modes of public transport,
- look to optimise their development footprint; accommodating access, servicing and parking in the most efficient ways possible integrated into the design.

9) To protect historic environments from insensitive development.

Enhanced density and scale should:

- not have an adverse impact on the character and setting of existing historic environments including Architectural Conservation Areas, Protected Structures and their curtilage and National Monuments – see section 6 below
- be accompanied by a detailed assessment to establish the sensitivities of the existing environment and its capacity to absorb the extent of development proposed,
- assess potential impacts on key views and vistas related to the historic environment.

10) To ensure appropriate management and maintenance.

Enhanced density and scale should

- Include an appropriate management plan to address matters of security, management of public/communal areas, waste management, servicing etc.

3.17. **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."*
- *Appendix 16 of the Plan deals with Sunlight and Daylight.*

3.18. Appendix 16: Sunlight and Daylight

- 3.18.1. The DCDP states that it is *the intended outcome of this guide is to ensure a consistent approach to completing daylight and sunlight assessments. This guide does not outline exact, city wide, expected results or a suite of results that are likely to be considered acceptable by the planning authority. Proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location."*
- 3.18.2. It is further stated *that the planning authority understand that, at present, there is some ambiguity in what may be considered the appropriate standard to apply for daylight and sunlight assessments. 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.*

4.0 Response to S137 Request

4.1. These submissions (as summarised) are in response to correspondence dated the 14th of November 2023 from An Bord Pleanála issued in accordance with Section 137 of the Planning and Development Act 2000 (as amended).

4.2. **Applicant - Stephen Ward Town Planning & Development Consultants Ltd on behalf of the applicant Urban Life (BMD)**

4.2.1. The zoning objective for the site remains Z1 Sustainable Residential Neighbourhoods in the DCDP and now includes Build to Rent as a land use category. Section 14.7.1 of the DCDP states that Build to Rent is "open for consideration" on lands zoned Z1. Submitted that the proposed development remains in keeping with the zoning objective for the application site as contained in the DCDP.

(1) Building Height

4.2.2. *Policy SC14 Building Height Strategy* - The applicant submits that the application documentation and appeal statement has demonstrated compliance with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and SPPR 1 to 4. It is noted that the omission of blanket restrictions to building height in the new DCDP means that while the proposed development satisfies the criteria of Section 3.2 of the Guidelines, approval is no longer reliant on SPPR 3 (A) as there is no potential material contravention of the Development Plan in relation to building height.

4.2.3. *Policy SC17 Building Height* - The proposed development is designed by experienced and award-winning team of competent experts. The site is a self-contained infill site measuring 0.58ha. The development will greatly enhance the connectivity for pedestrians and cyclists in the area with a new route through the site to and from Ellenfield Park and Beaumont Road. The BTR accommodation will improve the mix of housing in the area which largely consists of terraced or semi-detached houses. The site is well connected by public transport to the City Centre and employment centres and is within walking distance of Beaumont Hospital.

- 4.2.4. It is submitted the proposed development accords with all of the objectives detailed in *Table 3 contained in Appendix 3* as detailed in the information submitted with the planning application and appeal.
- 4.2.5. With regard to *Policy SC16 Building Height Locations* it is stated that the Beaumont Road site would qualify as one of the key areas defined by Appendix 3 under 'Public Transport Corridors', being within 500m of a bus stop and within the catchment of Bus connects/core bus corridors. An assessment of capacity and frequency of bus services accompanied the planning application.

(2) Density Ranges

- 4.2.6. *Policy QHSN6 Urban Consolidation* - It is submitted that the proposed development will bring a vacant brownfield site into productive use at an efficient density to support the consolidation and sustainable intensification of the City
- 4.2.7. *SC10 Urban Density* - The site is a brownfield site located in the inner suburban area of Beaumont. The appeal statement submitted to An Bord Pleanála details compliance with the checklists contained within the Guidelines and demonstrates how the qualitative standards required for higher density development have been met.
- 4.2.8. *SC11 Compact Growth* - The proposed development is fully in keeping with this policy and will assist in the achievement of compact growth in an established residential area with existing community services and facilities within walking distance and good public transport.
- 4.2.9. *Appendix 3* – The proposed development has a residential density of 170 units per hectare. It is submitted that this is not significantly higher than the general range of 60-120 and can be accommodated without adverse impacts. The efficient use of land in existing urban areas is essential to support the investment made and planned to be made in public transport. The ranges in the Development Plan are stated as a "general rule" and not as a Policy Objective such that exceeding them is not a material contravention of the Plan.

(3) Sunlight / Daylight

- 4.2.10. The DCDP contains a best practice guide for the assessment methodology of Daylight and Sunlight Assessments at Appendix 16. The appeal statement included an assessment of the proposed development in terms of potential impact of

overshadowing and access to daylight and sunlight. This assessment was undertaken using the guidance contained in the following key documents:

- BRE Guide - 2nd Edition/3rd Edition of **BR 209** BRE Site Layout Planning for Daylight and Sunlight
- **BS 8206-2:2008** - Lighting for Buildings - Part 2: Code of Practice for Daylighting
- IS EN 17037:2018 - Daylight in Buildings
- This is the Irish implementation of the European EN 17037:2018 standard
- **BS EN 17037:2018** - Daylight in Buildings

4.2.11. The proposed development has been shown to perform to a very high standard, including when considering internal daylight. Section 1.8, Section 10.4 and Section 11.6 of the report submitted with the appeal statement outline compensatory measures put forward to mitigate any shortfall in the minimum standards. Compensatory measures are also detailed in the main appeal statement.

(4) Build to Rent

4.2.12. Storage space, private amenity space and communal space meet with the recommendations of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines as contained within Appendix 1. As such, the proposal is in keeping with the DCDP objective to safeguard higher standards for all apartment developments. The proposed development adheres to the BTR Transition arrangements in terms of unit mix.

4.2.13. Car parking has been minimised in keeping with the development plan policy and SPPR 8. The application site is located in Parking Zone 2 as indicated by Map J contained within the DCP, in recognition of its location alongside a key public transport corridor. The development provides for car sharing as encouraged by Policy SMT27 and the planning application was accompanied by a mobility management plan.

4.2.14. *QHSN40 Build to Rent Accommodation* – This policy does not preclude BTR outside of the stated areas. The apartments in the proposed development are all designed as standard apartments in accordance with the 'New Apartment' Guidelines. The proposed BTR development will contain 99no. apartments. All apartments are designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments. All apartments

have their own private open space and adequate storage within each apartment as detailed in the housing quality assessment and appended to the Appeal Statement.

4.2.15. The application site is within 500m walking distance of the entrance to Beaumont Hospital Campus and the campus is clearly accessible by sustainable transport modes. It is submitted that the application site is well located relative to Beaumont Hospital, within reasonable walking distance (10minutes) and 5-minute cycle distance to the centre of the campus.

4.2.16. There is only one BTR development within 1km of the application site and it contains 124no. apartments. It is submitted that the permitted BTR developments are adequately distanced from the application site to avoid an overconcentration in one area. Table provided illustrating location of permitted BTR developments within a c4.3km catchment in relation to the application site:

4.2.17. *QHSN41 Build to Rent Accommodation* - The proposed BTR will contain 99no. apartments that meet with 'standard' apartment criteria in terms of the internal space standards and private amenity space. It is considered the residents support facilities are adequate for the size of development proposed. The ground floor of Block B as proposed is a flexible space that can be used as a lounge area, work space or for community meetings.

4.2.18. *QHSN 42 Built to Rent Accommodation* - The floor area of internal communal facilities equates to 3sq.m of resident amenity space per unit which is in keeping with the general average provision in similar Build to Rent schemes recently permitted as detailed by Table 1 and meets with the general guidelines contained within the DCP design standards for BTR developments (15.10.1).

4.2.19. The proposed development has been designed around the creation of a pedestrian/cycle link between Beaumont Road and Ellenfield Park and will contribute to both the existing neighbourhood and future residents, providing access to Ellenfield Park and encouraging use of public transport routes on Beaumont Road by increasing permeability and shortening walking times. The communal rooms front onto the public route through the site adding animation and visual interest to the new street as well as creating activity. Block A and Block B provide an active frontage to the new street which will be landscaped. The development is designed to allow external permeability through the site and in this way will physically link with the surrounding area. The link

will be a much used link for all members of the wider community. The provision of a 'gated' development that turns its back both physically and in terms of integration with the wider community is thus avoided.

4.2.20. *Section (ii) of SPPR 8 as contained in the 2020 Apartment Design Guidelines* - As previously noted, the proposed BTR Development does not depend on the flexibility provided by SPPRR 8 (ii). All storage and private amenity spaces meet with the space standards contained in the Guidelines at Appendix 1. Outdoor communal amenity space for residents is provided by way of a podium garden to the rear of Block B (580m) and a communal terrace outside the resident's room at ground floor level (67m*). Residents of Block A have access to a gardens expending to 783m'. The public open space extends to 1,243m', representing 21% of the site area. All open space areas have good orientation and access to sunlight.

(5) Other Development Plan Matters

4.2.21. Table 15-1 of the DCDP provides thresholds for a list of supporting studies recommended to be prepared for planning applications. While Table 15-1 is advisory, submitted that the table below demonstrates that the planning application package and first party appeal provides all necessary analysis and documentation.

Table 3 – Comparison of Table 15.1 of DCDP and information submitted in support of the proposed development			
Reports		Residential Threshold	Information provided by the Applicant
Architectural Design Report		50 or more residential units	Submitted with the Planning Application
Housing Assessment	Quality	All residential developments	Submitted with the Planning Application and Appeal
Landscape Design Report		30 or more residential units	Landscape Plan submitted with the Planning Application
Planning Report		30 or more residential units	Submitted with the Planning Application
Daylight & Sunlight Assessment		All apartment developments	Updated report provided as part of the appeal statement and Further Information provide as part of this submission.
Community & Social Audit		50 or more residential units	Submitted with the Planning Application

Lifecycle Report	All apartment developments	Submitted with the Planning Application
Operational Management Statement	30 or more residential units	The proposed development is a BTR so will be centrally managed. The applicant would accept a condition requiring an Operational Management Statement to be submitted for written agreement prior to commencement
Traffic & Transport Assessment	50 or more residential units	Submitted with the Planning Application
Mobility Management Plan / Travel Plan	20 or more residential units	Submitted with the Planning Application
Engineering Services Report	30 or more residential units	Submitted with the Planning Application
Construction Management Plan	30 or more residential units	An outline construction management plan was submitted with the Planning Application
Construction Demolition Waste Management Plan	30 or more residential units	An outline construction management plan was submitted with the Planning Application
Operational Waste Management Plan	30 or more residential units	The proposed development is a BTR so will be centrally managed. The applicant would accept a condition requiring an Operational Management Statement to be submitted for written agreement prior to commencement.
Climate Action & Energy Statement	30 or more residential units	An Energy Statement was submitted with the Planning Application
Surface Water Management Plan	2 or more residential units	Submitted with the Planning Application
Appropriate Assessment Screening & NIS	An AA Screening is required for all developments. A Stage 2 (NIS) is required where significant effects on the environment are likely either alone or in	The planning application was accompanied by an NIS

	combination with any other project.	
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4.3. **Addendum Report – Daylight, Sunlight and Overshadowing Study**

- 4.3.1. A total of 99 LKDs for block A and block B have been assessed. Of the 99 LKDs assessed 80 LKDs achieve the recommendations across 80% of their floor area, which accounts for 81% of all apartments. Also noted that the development as a whole performed to a very high standard when considering the internal daylight assessment, which is a far more accurate barometer of daylight performance within a development.

4.4. **Appellant - FP Logue Solicitors on behalf of Hugh Rafferty**

- 4.4.1. The changes introduced in the new City Development Plan are such that the first party appeal should not be allowed since the issues that gave rise to the planning authority refusal are even more pressing in light of the updated policies of the City Council. An entirely new proposal for this site should be designed which complies with both the letter and spirit of the development plan and addresses all of the concerns raised by the City Council.
- 4.4.2. **Observations on the First Party Appeal** - It is the operative development plan on the date of the decision which applies. This seems to be the position of the Board. It is not for the appellant or anyone else to correct the Board's homework. The appellant re-emphasises the serious concerns of the Planning Authority as recorded in its decision to refuse permission including that the project was contrary to the Building Height Guidelines, the Z1 zoning of the site and the Apartment Guidelines, including SPPR 7.
- 4.4.3. **Zoning** - The new DCDP has altered the zoning of the site. The zoning is still identified as Z1 but the zoning objective has changed. The objective is no longer to require development within easy reach of public transport but is now to ensure adequate public transport, in conjunction with enhanced pedestrian and cycling infrastructure provides such residential communities good access to employment, the city centre and the key urban villages in order to align with the principles of the 15-minute city. There is no evidence on the file to demonstrate compliance with the zoning objective in this regard.

- 4.4.4. **Build to Rent Policies** - The new DCDP introduces specific policies and objectives for Build to Rent, including in sections 5.5.7 and 15.10 of the plan. The proposed development does not comply with the location-specific criteria outlined on page 602 of the DCDP. The BTR justification report is now 18 months old and is out of date, and this report does not take into account the changes introduced with the new DCDP. Insofar as this scheme is only one unit short of 100 units, the new DCDP has a general presumption against schemes of over 100 units which comprise 100% BTR typology and indicates a minimum of 60% of standard designed apartments. In light of the above there are material contraventions of the City Development Plan policies concerning Build to Rent including Policies QHSN39 to 41.
- 4.4.5. **Daylight** - While there may be updated policies in relation to the daylight this doesn't take away from the obvious fact that there are no constraints on this site which prevent a design being proposed which has adequate daylight in all units. It is clear that the developer has chosen to design poorly lit units in order to maximise the economic return to it. Appendix 16 of the City Development Plan gives detailed design guidance on how well-lit rooms can be achieved, yet there is no evidence that this approach has been used by the developer giving rise to a serious substandard development. It is noted that the poor daylighting in this project indicates a likely significant effect on the environment and therefore the project must be screened in for EIA.
- 4.4.6. **Appropriate Assessment / EIA** - Reference is made to the Eco Advocacy decision of the Court of Justice which post-dates the planning application and the lodging of the appeal. It should be noted that this decision clarifies that elements incorporated into the design which are standard features required for all projects of the same type are not considered to be mitigation measures as defined in the *People Over Wind* case. It is clear that Stage 2 Appropriate Assessment is required and that the Board should make a screening determination to that effect. It is also clear that a post-consent construction and waste management plan cannot be considered. Further if a project is screened in for AA then by definition it must be screened in for EIA.
- 4.4.7. **Conclusion** - The decision to refuse should be upheld.

4.5. **Observers**

- 4.5.1. **Finola Davies, 23 Ellenfield Road, Whitehall, Dublin 9**

- Fails to see how a higher density building will contribute anything to the area if anything it will completely detract from the area.
- The developer does not intend to provide any new community facilities to deal with the new occupants of the development.
- The proposed development exceeds the maximum height of 16 metres allowed for apartment developments in this part of the city low rise neighbourhoods.
- The height and scale of the proposed development will lead to a complete loss of privacy for the observers house and neighbours homes.
- Observer will be affected by overshadowing and overbearing. There will be a significant loss of sunlight to the homes nearest the development.
- The proposed development fails on all of the points outlined in the BTR policies set out in the DCDP.
- The development is not within 500 metre walking distance of significant employment locations.
- The transient type of residents that "Build to Rent" attracts will do nothing for the neighbourhood.
- This development will have the following effect:
 - a) Loss of light and overshadowing
 - b) Affect the character of the area
 - c) Loss of privacy to surrounding houses
 - d) Will have a negative effect on the value of houses in the area
 - e) Loss of visual amenity due to height and scale of development
 - f) Added pressure on parking in the area
 - g) The need for housing should not be a reason to set aside good planning.

4.5.2. Elaine Brennan, 1 Ellenfield Road, Whitehall, Dublin 9

- Ellenfield, Glencore and surrounding areas are low density all 2 story houses. Queried how can 2 apartment blocks that tower above those houses be in keeping with the layout of the area.
- There are no plans to develop the area in the form of local shops or amenities.

- The proposed development exceeds the maximum height of 16 metres allowed for apartment developments in this part of the city low rise neighbourhoods.
- The height and scale of the proposed development will lead to a complete loss of privacy for many homes on the road.
- There are no major transport interchanges. The only public transport is an already overstretched bus service and no access to DART or Luas and the bus service is already struggling and not very reliable.
- Ellenfield/Beaumont Road is not within 500 metre walking distance of significant employment locations.
- "Build to Rent" will not attract people who want to settle down long term.
- While it falls beneath the BTR 100 units, by 1 unit, it is going to have a negative effect on the current residence.

4.5.3. **(1) Bernadette Rogers, 27 Pheasant Walk, Collins Avenue, Dunmore Road, Waterford City (Previous Resident at No 5 Ellenfield Road) and (2) Carmel Zea, 590 Westwood Road, Lockhart, Texas 78644, USA (same submission x 2)**

- **Density of the build** - The density of the build will lead to difficulties with the numbers of people living in the area, the available facilities and the overall infrastructure in the area.
- **Height** - The proposed height is out of line with the buildings in the immediate surrounding area and will break the building line and the character and pattern of the area. It will also cause severe privacy issues, to adjoining areas. The height will also block out the light in the surrounding houses/area.
- **Overall impact on adjoining houses** - The build will have severe impact on the houses at No 9 and 23B Ellenfield Road.
- **Water Supply Challenges** - There are challenges to water supplies in the area, this proposed build will add further difficulties.
- **Sewage System Challenges** - The DCC Drainage Department have already expressed concerns in a prior report in the 2021 planning application to DCC.
- **Potential Flooding Risk** - The River Wad runs under the site and there is documented history of flooding in the area.

- **Environmental Impact** - The overall build will have an environmental impact on the area.
- **Diversity of Housing** - People are looking for security of tenure and homes to buy rather than rent and be at the whim of a landlord.
- **Size of apartments** - The current plan is for circa. 100 apartments that are small in size. This will mean lower standards of living, resulting in smaller, darker homes, with less storage space and/or balcony space.
- **Transport Challenges** - Having this many additional people move into the area will cause a challenge for the bus routes. There is no access to DART or LUAS services within the immediate vicinity.
- **Parking Challenges** - There are insufficient spaces provided within the development, with no available on-road parking in the area.
- **Traffic Management** - Such high numbers of people and traffic, will cause further challenges to the traffic in the already busy and congested area.
- **Schools & Social Facilities** - There will be a challenge for the local schools, they will not have the capacity to handle additional numbers.
- **Opening the Wall at Ellenfield Road**
 - a) *Safety & Security* - This wall has been in place for over 80 years and is an integral part of the area. If it is knocked and access allowed there will be an increase in foot traffic, potentially causing an increase in noise at all times of the night and day, leading to safety and security issues.
 - b) *Reduction in Sense of Community & Safety* - Opening up the wall will reduce the wonderful sense of community and safety that there is in the cul-de-sac.
 - c) *Increase in Anti-Social Behaviour* - There are already anti-social elements using the park at night for gatherings, if there is unfettered access from Beaumont Rd it will lead to further anti-social problems.
 - d) *Counter to public policy* - Throughout the country, not only in Dublin, laneways/access-ways are being closed to counteract anti-social behaviour.
- **Mental Health** - It will impact on their wellbeing and decimate the wonderfully nurturing neighbourhood that exists in the area.

4.5.4. Rosin Shortall TD

- *Build to Rent (BTR)* - The proposed development is entirely BT and the site meets none of the City Council's criteria for BTR.
- *Height* - None of the Building Height Criteria as set in the DCDP have been met. For example:
 - a) The local area is entirely dependent on buses, and it is not in the vicinity of any key public transport interchanges.
 - b) The proposed development is mono tenure with an overconcentration of small rental properties.
 - c) The City Council already found that the proposal would provide a substandard level of residential amenity for future residents and "seriously substandard" in respect of residential support facilities and services, amenities, and access to communal open space proposed from Block A.
 - d) The scale of the proposed development shows no regard for the prevailing skyline or character of this low-rise suburban community.

4.5.5. **Beaumont Residents' Association / O'Neill Town Panning**

- The new height policy is based on a combination of location and performance criteria. The reasons given by the Planning Authority for refusing planning permission can be supported by the new statutory development plan for the area, and the proposed development remains a material contravention of the statutory development plan for the area and thus begs refusal.
- The Planning Authority gave three reasons for refusing planning permission for the proposed development. At least two of the reasons for refusal must be considered to be material contraventions of the Dublin City Development Plan 2022-2028, and on this basis alone the Board is precluded from granting planning permission for same without referring to Section 37 of the Planning and Development Act 2000.
- In the present instance the proposed development is not one that can rely on the density objectives of the national or regional plans, as it is taking place in a small suburban area distant from a mass public transport service.
- The proposed development would, by virtue of its height and bulk and proximity to existing low rise residential dwellings, seriously injure the residential amenities of adjoining dwellings, would constitute an excessive scale and density of

development in a prominent location and would interfere with the established character and attractiveness of the area and would seriously injure the amenities of the area.

4.5.6. Seamus Connolly, 66 Beaumont Road, Whitehall, Dublin 9

- Would like to see the plan and queries what height the apartment blocks are. No objection to 3 floors height that would fit in with the apartments that are built there.

5.0 Further Submissions

5.1. On the 18th December 2024, under Section 131 of the Planning and Development Act 2000 (as amended) the above submissions were cross circulated to all parties that responded to the previous Section 137 request issued on 14th November 2023. The 9 no parties are as follows:

- 1) Stephen Ward Town Planning on behalf of the applicant
- 2) FP Logue On behalf of Hugh Rafferty
- 3) Finola Davies
- 4) Elaine Brennan
- 5) Bernadette Rogers
- 6) Carmel Zea
- 7) Roisin Shortall TD
- 8) Seamus Connolly
- 9) O'Neill Town Planning on behalf of Beaumont Residents

5.2. Additional comments in submissions received may be summarised as follows:

5.2.1. Mary Heffernan, 3 Ellenfield, Whitehall, Dublin

- The recently built apartment developments at Thornwood (D09 CFH3) and the Crescent (D09 XK68) are of a height which is consistent with nearby housing unlike the scheme proposed.
- The proposed development is a build to rent, the nature of the rental market is such that there is likely to be significant turnover among the occupants overtime. A

reliable long term estimate of vehicle ownership is not therefore a credible proposition.

- The permeability and connectivity supposedly facilitated by the proposed laneway to Ellenfield contradicts recent precedent, adds no value, has the potential to become a public nuisance, lead to potential accidents for pedestrians using the access when residence reverse parking (tight space) – this proposal should be removed from the plans,

5.2.2. Kathy Noonan, 31 Ellenfield Road, Whitehall, Dublin 9

- Fail to see how a higher density building will contribute anything to the area
- The developer does not intend to provide any new community facilities to deal with new occupants in the development.
- The proposed development exceeds the maximum height of 16 metres allowed for apartment developments in this part of the city.
- Loss of light and overshadowing
- Affect the character of the area
- Loss of privacy to surrounding houses
- Will have a negative effect on the value of houses in the area
- Loss of visual amenity due to height and scale of the proposed development
- Added pressure on parking in the area
- There is a need for additional housing, but this development is not the answer.

5.2.3. Rosin Shortall TD

- Supports submissions that identified material contraventions of the new Development Plan and argued that the Board should uphold Dublin City Council's decision to refuse permission.
- The BTR justification report is no longer sufficient as it does not address the changes adopted last year.
- Board urged to decide on this case as a matter of urgency.

5.2.4. Appellant - FP Logue Solicitors on behalf of Hugh Rafferty

- The third party observations are consistent with the concerns of the planning authority and the appellant, that this constitutes a poor quality development which will have serious negative effects on residential amenity.
- In relation to the first party observation, it seems they have not grasped the significance of the policies in the new DCDP.
- The proposal manifestly fails to provide good place making in a proposal at 171 uph which is in the super-dense category of development.
- While it may be superficially true that there are no "blanket" restrictions on height, the DCDP nevertheless introduces strict criteria for increased height and density, particularly in the outer suburbs. The first party appellant does not engage meaningfully with these criteria.
- The proposal fails to meet even the lowest standards of lighting for hard to light developments despite the fact that a well-lit design could have been proposed.
- The proposed development does not promote the delivery of mixed-use development.
- The proposal for 170 uph is far in excess of DCDP policy and is in material contravention of this aspect of the DCD.
- Even if it could be argued that super dense development was in principle allowed in the outer suburbs, this location clearly only supports densities at the lower end of the range since it is not located at or near a key public transport interchanges or nodes which is where the highest densities will be permitted under the CDP.

5.2.5. O'Neill Town Planning on behalf of Beaumont Residents

- Agree with all of the comments raised by FP Logue on behalf of Hugh Rafferty i.e. that the proposed development is an inappropriate development for the area and is inconsistent with the proper planning and sustainable development of the area.
- The proposed development would-be contrary to the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.
- Requested that An Bord Pleanála uphold the decision of the Planning Authority by refusing planning permission

5.2.6. **Carmel Zea, 590 Westwood Road, Lockhart, Texas 78644, USA and Bernadette Rogers, 27 Pheasant Walk, Collins Avenue, Dunmore Road, Waterford City (Previous Resident at No 5 Ellenfield Road) (same submission x 2)**

- **Response to Applicant Submission** - The proposed development does not fit into the context and character of the surrounding area and will detract from the same. The development will dwarf the surrounding houses, cut off light to the houses and some of the houses will be totally overlooked - especially from the proposed roof-garden.
- **Wall at Ellenfield Road** – Opening up access will destroy the sense of community in the area and most importantly increasing the sense of insecurity and danger for the local residents.
- **Insufficient Car Spaces** - The plan does not allow for sufficient car spaces. Opening the gap in the wall will mean that local residents will be further challenged.
- **Build to Rent** – The justification provided in the submission for the communal facilities and services does not meet the DCDP requirements.
- **Access to transport and local amenities** - Although the proposed development is within 500m of a bus stop, the current service cannot meet the requirement, particularly at rush hour times and therefore fails to meet the requirement for 'adequate public transport'. Local amenities such as schools, community group access etc. are challenged and to bring in a housing development of that density will further put strain on the same.
- **Incorrect distances** - Despite what the submission says the build is 950m from the Swords Road QBC.
- **Safety** - Not only in the areas mentioned above in relation to knocking access through the wall, but also additional noise, lighting and other pollutants - causing stress, anxiety and health challenges.
- Supports the observations submitted by
 - 1) FP Logue on behalf of Hugh Rafferty
 - 2) Finola Davies
 - 3) Elaine Brennan
 - 4) Bernadette Rogers

- 5) Roisin Shortall TD
- 6) Seamus Connolly
- 7) O'Neill Town Planning on behalf of Beaumont Residents

5.2.7. Applicant - Stephen Ward Town Planning & Development Consultants Ltd on behalf of the applicant Urban Life (BMD)

5.2.8. DCDP Zoning

- The Development Plan that will be in force at the time the Board makes its decision is the Dublin City Development Plan 2022 - 2028 (DCDP). It does not follow that a new proposal must be submitted every time such crossover occurs. It is within the remit of the Board to invite submissions during the appeal process and it has done so in this case.
- The stated zoning objective is set out at Section 14.7.1 of the Development Plan is "Land-use Zoning Objective Z1: To protect, provide and improve residential amenities" has in fact not altered between the previous and current development plans. Both plans refer to "adequate public transport". There are no changes between the 2016 and the 2022 Plan in terms of this wording. The current DCDP now includes Build to Rent as a land use category. Section 14.7.1 of the DCDP states that Build to Rent is "open for consideration" on lands zoned Z1.

5.2.9. DCDP Build to Rent (BTR)

- The subject appeal was lodged on the 21st of July 2022. SPPR 7 and SPPR 8 still apply to the assessment of the proposed BTR development. However, the flexibility provided for by SPPR 8 was only applied to the proposed development in terms of the apartment mix.
- Storage space, private amenity space and communal space meet with the recommendations of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines as contained within Appendix 1. As such, the proposal is in keeping with the DCDP objective to safeguard higher standards for all apartment developments. The proposed development adheres to the BTR Transition arrangements in terms of unit mix.
- As part of our S137 submission we undertook a review of planning applications made to Dublin City Council and this review revealed there are no further BTR

developments either permitted or pending decision within 1km radius of the application site.

- The proposed development provides a type of accommodation that is not currently available in the area and will offer professionally managed accommodation to employees, including those of Beaumont Hospital, DCU (1.6km walking distanced) as well as providing a better mix of housing stock in the area.
- As previously noted, the proposed BTR Development does not depend on the flexibility provided by SPPR 8 (ii). All storage and private amenity spaces meet with the space standards contained in the Guidelines at Appendix 1.
- Outdoor communal amenity space for residents is provided by way of a podium garden to the rear of Block B (580msq) and a communal terraced outside the resident's room at ground floor level (67m%). Residents of Block A have access to a gardens expending to 783m'. The public open space extends to 1,243m?, representing 21% of the site area. All open space areas have good orientation and access to sunlight.

5.2.10. DCDP - Development Management

- **Building Height** - The omission of blanket restrictions to building height in the DCDP means that while the proposed development satisfies the criteria of Section 3.2 of the Guidelines, approval is no longer reliant on SPPR 3 (a) as there is no potential material contravention of the Development Plan
- **Density** - The proposed built to rent development has a density of 170 units per hectare. The proposed development is in keeping with 'density' policies of the DCDP, including QHSNG (Urban Consolidation) and SC10 (Urban Density) and SC11 (Compact Growth).
- **Sunlight / Daylight** - This matter is dealt in detail as part of our Section 137 submission. In the interests of comprehensiveness, the applicant has engaged IES Consultants to respond to the queries raised by the appellants with regard to Sunlight and Daylight. See summary below.
- **Impact on Residential Amenity (overlooking / overbearing / loss of privacy)** - There are no changes in the Development Plan that would warrant a refusal of permission in this case.

5.2.11. **Appendix A** – Clarification specifically on the items concerning the Daylight, Sunlight and Overshadowing:

- Throughout the design process the design team worked hard to optimise the whole development to maximise the daylight within the proposed scheme. Initial testing was producing daylight results of 76% for the 2% target. Optimisation solutions were tested which included the following:
 - 1) The increase of glazing to existing window apertures.
 - 2) Altered internal layouts to maximise daylight potential within apartments.
 - 3) Relocated balconies to improve daylight to apartments where performance was identified as an issue.
- The introduction of the above design solutions improved the daylight to the scheme as a whole as anticipated producing final daylight results of 83% for the 2% target. When the results of the climate based annual calculations are considered under the BS EN 17037, all apartments met the daylight requirements.
- It should also be considered, particularly within apartment design where properties are on a single aspect, high Daylight Factors can contribute to overheating. To achieve a 5% ADF/700lux would definitely come into this bracket as noted by the UK committee within BS EN 17037,

6.0 **Assessment**

- 6.1. I refer to the previous Inspectors report and assessment therein that considered the new Dublin City Development Plan 2022-2028 (hereafter referred to as the DCDP) and the Apartment Guidelines together with all submission's received in response to the Boards S137 request and further cross circulation and responses to same.
- 6.2. Having regard to the specific requirement as set out in the Section 137 notice to all parties and responses received to same as documented above, I propose to deal with the new DCDP only in this assessment. I will make reference to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). These were not considered in the previous Inspectors assessment and were not addressed in the S137 request. In this regard the Board may wish to seek further comments from the relevant parties in this regard. For completeness I

will also highlight any other matters raised in submissions for the Boards consideration.

6.3. Therefore, I consider the key planning issues relating to the assessment of the appeal can be considered under the following headings:

- Principle
- Build To Rent (BTR)
- Density
- Height
- Sunlight / Daylight
- Other Matters Raised

6.4. Principle

6.4.1. The zoning objective for the site remains Z1 Sustainable Residential Neighbourhoods in the new DCDP and where the stated objective is "*To protect, provide and improve residential amenities*". The DCDP now includes *Build to Rent* as a land use category. Section 14.7.1 of the DCDP states that Build to Rent is "*open for consideration*" on lands zoned Z1. A use that is 'open for consideration' is defined in the Plan as follow:

"An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area."

6.4.2. I am satisfied that the proposed use remains in keeping with the zoning objective for the site as contained in the new DCDP. I further agree with the previous Inspector 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*. Accordingly, there is no objection to the principle of BTR use proposed at this location.

6.4.3. Part of the development includes the demolition and clearance of all buildings and structures on site. There were no buildings on site on day of site inspection. The previous Inspector noted that *the house and commercial buildings complex on the site*

are disused and running to dereliction and that they are of no architectural merit, and their removal is acceptable. The removal of these buildings on site is a matter for the Local Authority.

6.4.4. I refer to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000 (as amended) and Circular Letter NRUP 07/2022 of the Department of Housing, Local Government and Heritage (dated 21st December 2022) that removed the planning requirement that BTR is identified as a separate development type, with specific design standards. Instead, BTR development is to meet the same standard as those for all other permitted apartment development. I further refer to a further amendment to these Guidelines in July 2023 in relation to certain Transitional Arrangements for Build-to-Rent developments (sections 5.10 & 5.11). According to 5.10 of the Guidelines (2023) *"All current appeals or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that were subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the previous version of the Apartment Guidelines, that included SPPRs 7 and 8."*

6.4.5. The subject appeal was lodged on the 21st July 2022. SPPR 7 and SPPR 8 still apply to the assessment of this proposed BTR development. The applicant states that the flexibility provided for by SPPR 8 was only applied to the proposed development in terms of the apartment mix. Storage space, private amenity space and communal space meet with the recommendations of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines as contained within Appendix 1. Therefore, the proposal is in keeping with the new DCDP objective to safeguard higher standards for all apartment developments and the proposed development adheres to the BTR Transition arrangements in terms of unit mix. I am satisfied that the scheme was designed in accordance with the relevant sections of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (as amended).

6.5. Build to Rent (BTR)

- 6.5.1. Regarding BTR I refer to the Dublin City Development Plan 2022-2028. Chapter 5 of the Plan deals, amongst other things with BTR units with new policies and objectives introduced for Dublin City. Section 3.0 of this report refers. There is a presumption against the proliferation and overconcentration of BTR and the excessive reduction of standards relating to storage space, private amenity space and communal space as provided for by SPR 8 (ii) of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.
- 6.5.2. Policy QHSN40 of the new DCDP seeks to facilitate the provision of 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.*
- 6.5.3. As pointed out by the previous Inspector the site is within a 500m walking distance of significant employment location namely Beaumont Hospital Campus, and I agree that this is acceptable having regard to the requirements of Policy QHSN40.
- 6.5.4. Policy QHSN40 also states that there will be *a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology* and that to ensure *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.* While marginally below the 100-unit ceiling it remains that the scheme is for 99 BTR units only and is therefore in accordance with this policy. All apartment units meet or exceed the minimum design standards. As previously noted, the apartments in the proposed development are all designed as standard apartments in accordance with the 'New Apartment' Guidelines. All apartments have their own private open space and adequate storage within each apartment as detailed in the housing quality assessment appended to the Appeal Statement submitted to An Bord Pleanála.

6.5.5. Policy Objective QHSN40 also requires that 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. A BTR Justification Report accompanied the planning application to Dublin City Council. At the time of writing the BTR Justification Report, the closest BTR permitted was 1km south of the site at the Bonnington Hotel now known as Broomhill. The Swiss Cottage BTR development is 1.5km from the application site adjacent to the Omni Shopping Centre Key Urban Village. Permitted BTR developments within 2.5km of the site are recorded and summarised as follows:

Table 2 BTR Planning Search					
	Development	Distance	No of Units	Internal Residents Amenity Floor Space	Average Residents Amenity Floor Space
1	Swiss Cottage	1.5km	120	393 sqm	3 sqm
2	Bonnington Hotel	1km	124	268 sqm	2 sqm
3	Former Chivers Site	2.5km	495	1,266.5 sqm	2.5 sqm
4	Holy Cross	2.5km	1,592	3,504 sqm	2.2 sqm
5	Malahide Road	c.4km	331	903 sqm	2.7 sqm
6	Clare Hall	c.4km	123	1,025 sqm	8 sqm
7	Redcourt Clontarf	c.4.3km	131	327.6 sqm	2.5 sqm

6.5.6. The applicant submits that at the time of submitting their S137 response a review of planning applications made to Dublin City Council has not revealed any further BTR developments either permitted or pending decision within 1km radius of the application site.

6.5.7. As set out in the new DCDP, applications for BTR schemes should be required to demonstrate 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 (HNDA). The HNDA for Dublin City is contained within Annex 1 to Appendix 1 of the new DCDP. In their S137 response the

applicant carried out a review of the HNDA for Dublin city as contained within the DCDP. The HNDA identified two sub-areas in the Dublin City administrative area where a specific residential mix shall be applied as per Table 37 of the Housing Strategy: The Liberties and North Inner City. The application is not within or proximate to these two sub-areas. No Housing Need and Demand Assessment (HDNA) has been carried out by DCC for the area of the this appeal site and so it is not possible to determine whether the units provided are exactly what is needed within this area.

- 6.5.8. The analysis contained within the BTR Justification Report submitted with the planning application was based on statistics for the area from Census 2016. This information has been updated with Census 2022 information for a 1km radius in recognition of the policies contained within the new DCDP. It is submitted that the area in which the site is located is dominated by housing, representing 87.5% of all household accommodation compared to flat/apartment/bedsit which represent 12.5%. The housing stock is mainly owner occupied (72.5%), 44% with no mortgage. 18% of households that stated their accommodation type are rented from private landlords and approximately 4% rented from the local authority or voluntary housing body. Most of the housing stock was built between 1946-1960. The applicants review also confirmed that there is no policy conflict between the proposed development and the new DCDP, including that the proposed development is not located in an area where a specific residential mix is to be applied.
- 6.5.9. It is evident that there is no over-concentration or proliferation of BTR developments in the area. There have been no significant material changes to the population and/or the structure of the population within 1km of the site between the 2016 and 2022 censuses. In fact it is noted that the population within the Whitehall D Electoral Division in which the site is located has marginally declined (-0.2%) between 2016 and 2022. This is as might be expected in an area within which the proposed development is located.
- 6.5.10. Based on the foregoing information I am satisfied that the provision of BTR apartment units, will represent a diversification of unit type in the area and that the scheme would not result in the over-concentration of one housing tenure in this area and is therefore acceptable in relation to Policy QHSN40.

- 6.5.11. Policy QHSN41 seeks 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.*
- 6.5.12. As mentioned previously a detailed justification for the scheme proposed has been provided by the applicant by way of the BTR Justification Report. This relies on the site location and context; its bus transport links; mobility management plan to be put in place; proximity to Beaumont Hospital Campus 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'. A letter from Colliers Estate Agents was appended to the BTR Justification Report submitted as part of the planning application where it considered the residents support facilities proposed to be adequate for the size of development proposed and that more intensive forms of communal facilities such as gyms are only in larger rental developments that can support the additional expense. It is noted that the ground floor of Block B is a flexible space that can be used as a lounge area / work space.
- 6.5.13. I agree with the previous inspector that at 99 units, that the scale of development is sufficiently large, to sustain the communal 'resident support facilities' and 'resident services and amenities' as proposed. I further agree that *the proposed development is not seeking to benefit from any of the relaxation in apartment standards allowed for BTR units in the Apartments Guidelines and that 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.*
- 6.5.14. Based on the foregoing information I am satisfied that the provision of 99 BTR apartment units has been justified in this case and is therefore acceptable in relation to Policy QHSN41.
- 6.5.15. Policy QHSN42 seeks 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.

- 6.5.16. The resident support facilities proposed consist of a management office at ground floor of apartment Block A and bulky storage at ground floor of apartment Block B. 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. The floor area of internal communal facilities equates to c3q.m of resident amenity space per unit which is in keeping with the general average provision in similar Build to Rent schemes recently permitted as detailed in Section 6.5.5 above and meets with the general guidelines contained within the DCDP design standards for BTR developments. 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’.
- 6.5.17. Based on the proposed mix of apartments, 546msq of communal amenity space is required. Outdoor communal amenity space for residents is provided by way of a podium garden to the rear of Block B (580m?) and a communal terraced outside the resident's room at ground floor level (67m%). Residents of Block A have access to a garden expending to 783m'. The public open space extends to 1,243msq, representing 21% of the site area. All open space areas have good orientation and access to sunlight and as such are acceptable.
- 6.5.18. Policy QHSN42 also requires that it is demonstrated how the scheme will integrate into the surrounding community. The proposed development has been designed around the creation of a pedestrian/cycle link between Beaumont Road and Ellenfield Park providing access to Ellenfield Park and encouraging use of public transport routes on Beaumont Road by increasing permeability and shortening walking times. This pedestrian/bicycle plaza link will ensure that, insofar as privacy and security allow, the scheme will be permeable to those wishing to pass from Beaumont Road to Ellenfield Road. It is also noted that the communal rooms front onto this route and that Block A and Block B provide an active frontage to the new street which will be landscaped. As documented by the previous Inspector 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. In line with the previous Inspector, I agree that the scheme will integrate, to the extent possible, with the surrounding community. In addition such permeability is an essential component in the design of any scheme at this location and while noting the concerns of adjoining residents the benefits of this new route are to be supported in this case.

6.5.19. Based on the foregoing I am satisfied that the design and layout of the proposed 99 BTR apartment units with particular reference to the pedestrian/bicycle plaza link through the site and associated public realm together with the provision of concierge/management area, a community facilities/work hub, bulk storage and external terrace area addressing the new pedestrian/cycle plaza link demonstrates the schemes integration into the existing community and provision of adequate resident support facilities for the scheme proposed. I am satisfied that the proposed scheme will *contribute to the sustainable development of the broader community and neighbourhood* and is therefore acceptable in relation to Policy QHSN42.

6.6. Density

- 6.6.1. The proposed development would result in a residential density of 171 units per hectare (i.e. 99 units on a stated site area of 0.58ha). The new DCDP and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) are very clear in the application of net area in calculating density. A net site density measure is a more refined estimate and includes only those areas that will be developed for housing and directly associated uses. While the applicant has provided a stated gross area throughout the planning documents there is no readily available stated net area for the site provided. A density based on net area would result in a higher density at this location i.e. greater than 171 units per ha.
- 6.6.2. Chapter 5 of the new DCDP deals, amongst other things, with density. I refer to Table 1, of Appendix 3, of the new DCDP that contains net density ranges that are stated as "a *general rule*" in the city. According to Table 1 the appeal site would be considered as an '*Outer Suburb*' where the net density range (units per hectare) should generally

be 60-120. The Appendix goes on to state that “*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 in Table 3 each with a bullet-point list of assessment criteria.

- 6.6.3. Having regard to the performance-based criteria Performance Criteria outlined by Table 3 contained in Appendix 3 together with the detailed assessment of the previous Inspector with regard to Table 3 I am satisfied that the scheme will promote a sense of place and character through the design and elevational treatment of the scheme; provide appropriate legibility via the new pedestrian/bicycle link and enclosure of spaces through the creation of a throughfare, additional public open space and a strong urban edge to Beaumont Road; pedestrians and cyclists are prioritised through the creation of a new pedestrian/bicycle link, which is at an appropriate scale, overlooked from the apartments and with a sense of enclosure; provide high quality and active public realm, provide high quality and usable private spaces through the provision of communal facilities/work hub area and the expansion of dwelling topologies in the area while ensuring quality and environmentally sustainable buildings.
- 6.6.4. The density of the development was not cited in the DCC Notification of decision to refuse planning permission. The proposed development has a plot ratio of 1.4 site coverage of c.30% which are both within the range recommended by the DCDP. The low site coverage reflects the high level of public and communal open space on site. The proposed development is fully in keeping with Policy SC11 Compact Growth and will assist in the achievement of compact growth in an established residential area with existing community services and facilities within walking distance and good public transport. The proposed development will bring a vacant brownfield site into productive use at an efficient density to support the consolidation and sustainable intensification of the City in keeping with Policy QHSN6. Overall, I am satisfied that the 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.
- 6.6.5. I also refer to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Table 3.1 - Areas and Density Ranges Dublin and Cork City and Suburbs states that within *City – Suburban / Urban Extension Areas residential densities in the range 40 dph to 80 dph (net) shall generally be*

applied at suburban and urban extension locations in Dublin and Cork, and that densities of up to 150 dph (net) shall be open for consideration at ‘accessible’ suburban / urban extension locations (as defined in Table 3.8). Section 3.4.1 of the Guidelines states that densities above the ranges are ‘open for consideration’ at accessible suburban and urban extension locations to the maximum set out in Section 3.3 i.e. 150 dph (net).

- 6.6.6. As documented in the previous Inspectors report 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. I am satisfied with the traffic and transport 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 and “Accessible Location” as defined in Table 3.8 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 6.6.7. Overall, I agree with the conclusions of the previous Inspector as follows:

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.

- 6.6.8. Having regard to the new DCDP together with the Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) I am satisfied that the density, albeit at a level significantly higher than the prevailing context can be justified at this location and is therefore acceptable.

6.7. Height

- 6.7.1. I note from the information on file that the development under consideration by An Bord Pleanála has been amended to take account of the conditions attached to the previously permitted development on the site (ABP-310709-21). In particular, it is submitted that the current scheme addresses inter alia condition 2 of the permitted scheme by reducing the height of Block A as required, revised elevation details, ramp access from the public street and omission of car parking spaces. The scheme under consideration by the Board is lower than the scheme as previously lodged for planning.
- 6.7.2. Under the new DCDP building height is dealt with in Chapter 4 of the Plan. The following policies are of relevance. It is stated that the previous height restrictions at Section 16.7.2 (16 metres etc) has been removed. There are no limits set for building height in the new DCDP and the policies within the Plan accord with the Section 28 Urban Development and Building Height Guidelines (2018). This means that while the proposed development satisfies the criteria of Section 3.2 of the Guidelines, approval is no longer reliant on SPPR 3 (A) as there is no potential material contravention of the Development Plan in relation to building height
- 6.7.3. Policy SC16 Building Height Locations recognises *the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones, Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.*
- 6.7.4. Appendix 3 of the DCDP entitled 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' identifies locations for appropriate increased density and height and outlines the strategic approach to height in the City of Dublin. Appendix 3 of the DCDP requires that all proposals with significant increased height

and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3. As a general rule, the development of innovative, mixed-use development that includes buildings of between 5 and 8 storeys, including family apartments and duplexes is promoted in the key areas. In accordance with SPPR 1, "Public Transport Corridors" is a location identified in the DCDP as generally suitable and appropriate for accommodating a more intensive form of development, including increased height.

- 6.7.5. There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including Bus Connects / Core Bus Corridors (CBC's).
- 6.7.6. Housing in the immediate area of the appeal site is characterised as mainly two storey semi-detached and terraced dwellings with Ellenfield Park to the west which features playing fields and children's playground. To the south of the application site there is an infill development of 1 no. two storey and 4 no. three storey apartment buildings and a single two storey dwelling (68A Beaumont Road) to the rear of 68 Beaumont Road. Site photos refer.
- 6.7.7. The proposed blocks are not considered to be landmark / tall buildings – being less than 50m in height. The height of the proposed development has been modulated on site to respond to its built context with the taller elements centred at the greatest distance from existing residential dwellings. The tallest part of Block A and Block B is 21.950m from street level fronting onto Grace Park Court / Beaumont Road at a wide road junction. The building steps down to three storeys at the site edges where it meets with existing residential development.
- 6.7.8. As set out in Appendix 3, Locally Higher Buildings are considered to be *"buildings that are significantly higher than their surroundings and are typically up to 50 metre in height"*. The proposed development deviates from the prevailing height of two and three storeys but is in line with best practice examples as stated in Appendix 3 which achieve a sustainable density with mid-rise typologies of buildings 4-8 storeys in height and schemes that combine mixed tenure homes, public space and community infrastructure.
- 6.7.9. The applicant submits that the site would qualify under 'Public Transport Corridors', being within 500m walking distance of a bus stop and with the link introduced through

the site, it will also be within 500metres from the QBC on Swords Road. It is further submitted that the site is within the catchment of the proposed Bus Connects / Core Bus Corridors. I refer to the assessment of capacity and frequency of bus services that accompanied the planning application.

6.7.10. Policy C17 Building Height seeks to protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- *follow a design led approach;*
- *include a masterplan for any site over 0.5ha (in accordance with the criteria for assessment set out in Appendix 3);*
- *make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context;*
- *deliver vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;*
- *Do not affect the safety of aircraft operations at Dublin Airport (including craneage); and*
- *have regard to the performance-based criteria set out in Appendix 3.*

All new proposals in the inner city must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas and civic spaces of local and citywide importance.

6.7.11. Having regard to the foregoing criteria I am satisfied that:

- The proposed development has followed a suitable design led approach comprising a multi-disciplinary suitable qualified design team
- While the appeal site has a stated area of 0.58 ha (marginally more than the stated 0.5ha) I am of the view that a retrospective masterplan for this self-contained infill site at this juncture would be redundant. I do not consider that this section of the policy was written to prohibit development retrospectively.
- This is an application for the construction of two apartment buildings (Buildings A and B) that will range in height from 3 storeys to 6 storeys together with the creation of a pedestrian / cycle link through the site from Beaumont Road/Grace Park Court to Ellenfield Road. The density and height of the scheme is expressed in the

design and architecture of the buildings and layout and I am satisfied that the scheme has had due regard for its context and the policies and objectives of the new DCDP.

- The proposed development is a compact scheme that will improve the mix of housing in the area and will enhance the connectivity for pedestrians and cyclists in the area with a new landscaped route through the site to and from Ellenfield Park and Beaumont Road and that is well connected by public transport.
- The safety of aircraft operations at Dublin Airport (including craneage) is not applicable to the appeal site.
- Having regard to the performance-based criteria Performance Criteria outlined by Table 3 contained in Appendix 3 I refer to the assessment of same in Section 6.6.3 of this assessment above. As previously referenced the development will provide a secure sustainable density, at a at location of accessibility.
- Having regard to the final section of Policy SC17 the appeal site is outside these Areas.

6.7.12. 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. However, the density, height and layout of the development provides a logical, practical and legible response to redeveloping this site, particularly considering the site development constraints and context whilst supporting the sustainable redevelopment of the site in line with government policy to increase the delivery of housing.

6.7.13. 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. The height can be justified at this location, by reference to the criteria set out at Table 3 of Appendix 3 of the new DCDP. I am also satisfied that the scheme as submitted accords with all the above objectives as detailed in the information submitted with the planning application, the appeal and S137 responses.

6.7.14. Having regard to the new DCDP together with the Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) I am satisfied that the height can be justified at this location and is therefore acceptable.

6.8. Sunlight / Daylight

- 6.8.1. The new DCDP contains a best practice guide for the assessment methodology of Daylight and Sunlight Assessments at Appendix 16. According to the new DCDP, *"The intended outcome of this guide is to ensure a consistent approach to completing daylight and sunlight assessments. This guide does not outline exact, city wide, expected results or a suite of results that are likely to be considered acceptable by the planning authority. Proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location."*
- 6.8.2. The new DCDP acknowledges there is some ambiguity in what may be considered the appropriate standard to apply for daylight and sunlight assessments. Section 3.6 of Appendix 16 states *"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."*
- 6.8.3. A Daylight, Sunlight & Overshadowing Study was submitted with the application. A revised study was submitted with the first 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. As documented by the previous Inspector the original Study submitted, mistakenly omitted one of the 99 apartments – unit 05.02 within Block B; which error was rectified in the Study submitted with the first party appeal.
- 6.8.4. The appeal statement included an assessment of the proposed development in terms of potential impact of overshadowing and access to daylight and sunlight. This assessment was undertaken using the guidance contained in the following key documents:
- BRE Guide - 2nd Edition/3rd Edition of BR 209 BRE Site Layout Planning for Daylight and Sunlight
 - BS 8206-2:2008 - Lighting for Buildings - Part 2: Code of Practice for Daylighting

- IS EN 17037:2018 - Daylight in Buildings - This is the Irish implementation of the European EN 17037:2018 standard
- BS EN 17037:2018 - Daylight in Buildings

6.8.5. Section 5 of Appendix 16 outlines the expected methodology for daylight and sunlight reports to be submitted with planning applications to Dublin City Council. The applicant has reviewed Appendix 16 of the DCDP and confirms that the assessment submitted as part of the appeal statement provides the information required.

6.8.6. I refer to the previous Inspectors assessment. Of the 99 kitchen/living/dining areas tested, the Study reveals that 80 units (80%) meet or exceed the APSH (Annual Probable Sunlight Hours) standard, whilst 85 units (85%) meet or exceed the WPSH (Winter Probable Sunlight Hours) 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.

6.8.7. The Daylight, Sunlight and Overshadowing Study submitted with the appeal statement outline compensatory measures put forward to mitigate any shortfall in the minimum standards. Compensatory measures are also detailed in the main appeal statement. Outlined below is a summary of the rationale and compensatory design solutions for the proposed development:

- The Guidelines on Apartment Design and Building Height specifically highlight the need to balance the achievement of wider planning objectives and effective urban design and streetscape solutions when having regard to quantitative performance approaches. Block A and B both have two primary and active streetscapes - one to Beaumont Road and a second fronting the new pedestrian/cycle link through the site. The design also addresses the corner position of the site providing animation and variation in building scale and mass along Beaumont Grove.

- 49% of the apartments proposed are dual aspect with no north facing single aspect apartments. This gives residents better access to daylight and increases ventilation. Most units that fall below the BRE standard of 2% L/K/D or 1% in the case of bedrooms are dual aspect.
- 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.
- The apartments that fall below the recommended BRE standard at ground floor of Blocks A front onto the new non-vehicular link between Beaumont Road, Ellenfield Road and Ellenfield Park which offers significant planning gain to the area. Ground floor units in Block A have own door access which significantly increases activity on the 'street' and is attractive to home owners. This area will be attractively landscaped to look out onto and will receive adequate sunlight making it a pleasant view. For these reasons, living/kitchen/dining areas of apartments at ground floor level of Block A were positioned overlooking the 'street' even though the position of the bedrooms to the 'rear facing Beaumont Grove achieve a higher standard of daylight.
- SPR8 allows for flexibility in relation to the provision of private amenity space in BTR development. The proposed development does not seek to apply this flexibility and instead provides private open space for all residents. The position of balconies attempts to minimise overshadowing, however it is unavoidable that projecting balconies will have an impact on access to daylight and sunlight.

6.8.8. I agree with the conclusion of the previous Inspector that the number of apartment units not meeting the APSH standard is acceptable in this instance having regard 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%.

6.8.9. 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. As concluded by the previous Inspector this quantum is acceptable with regard being had to the factors referenced in the subsection above.

6.8.10. Having regard to the foregoing I also agree with the conclusion of the previous Inspector *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.*

6.8.11. It is noted that the new DCDP also requires an assessment of No Skyline (NSL) in all habitable rooms (NSL - skylight metric) which is outlined by BR 209, noting the general sentiment within BR 209 that the results presented should be interpreted with flexibility. The NSL test calculates the distribution of daylight within rooms by determining the area of the room at desk / work surface height (the 'working plane') which can and cannot receive a direct view of the sky and hence 'sky light'. NSL is identified as the intersection of the working plane (0.85m above the floor) with a line from the sky. Areas beyond the NSL, since they receive no direct daylight, usually look dark and gloomy compared to the rest of the room, however bright it is outside. Supplementary electric lighting will be needed in these scenarios.

6.8.12. It is noted that at the time of producing the original report the NSL Assessment was not a requirement within the guidance with regards to proposed developments daylight and sunlight. I am satisfied that the original report meets all other guidelines required within the new DCDP. The applicant sets out that the internal daylight assessment undertaken in the report submitted as part of the appeal statement is a far more

accurate tool for the assessment of daylight performance within a development as it provides a qualitative assessment of light in a room as indicated in the original appeal report.

6.8.13. In recognition of the best practice guide contained at Appendix 16 of the DCDP, the applicant has undertaken a NSL assessment of the proposed development as an addendum to the original report and this addendum is attached at Appendix A of the S137 response. It is submitted that the development as a whole performed to a very high standard when considering the internal daylight assessment, which is a far more accurate barometer of daylight performance within a development.

6.8.14. The assessment has been conducted for all main Living, Kitchen, Dining spaces (LKD) within the development with the results summarised in the table below.

Block	Total LKDs Assessed	No of Passed LKDs	% of Passed LKDs
A	55	41	75%
B	44	39	90%

6.8.15. A total of 99 LKDs for Block A and Block B have been assessed. Of the 99 LKDs assessed 80 LKDs achieve the recommendations across 80% of their floor area, which accounts for 81% of all apartments. I agree with the applicant that a high standard has been achieved as not all apartments can be expected to achieve this assessment recommendation and that the development performed to a very high standard when considering the internal daylight assessment, which as stated is a far more accurate barometer of daylight performance within a development.

6.9. Other Matters Raised

6.9.1. The appellant raises specific concerns that in light of the Eco Advocacy decision of the Court of Justice which post-dates the planning application and the lodging of the appeal that elements incorporated into the design which are standard features required for all projects of the same type are not considered to be mitigation measures as defined in the People Over Wind case. It is submitted that in light of this decision that a Stage 2 Appropriate Assessment is required and that the Board should make a screening determination to that effect. It is further submitted that if a project is

screened in for AA then by definition it must be screened in for EIA. While these matters are out with the matters identified in the Section 137 request the Board may wish to consider same before deciding this appeal.

7.0 Conclusion

- 7.1.1. I am satisfied that the proposed development is in keeping with the zoning objective for the site as contained in the Dublin City Development Plan 2022-2028 and that it has been demonstrated that the development can be facilitated with no adverse impacts on adjoining residential development. I am further satisfied that the scheme will enhance permeability and access to public transport for the existing residents of Ellenfield Road/Glencorp Road. The proposed development would constitute an acceptable density and height of development in this accessible urban location, 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 and would provide an acceptable form of residential amenity for future occupants. There are no changes in the new Development Plan that would warrant a refusal of permission in this case.

8.0 Recommendation

- 8.1. I recommend that permission be granted for the Reasons and Considerations set out in the previous Inspectors report and subject to the Conditions as attached to the previous Inspectors recommendation.

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.

Mary Crowley

Senior Planning Inspector

23rd August 2024