



An  
Bord  
Pleanála

## S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

### Inspector's Report ABP-314281-22

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#### **Strategic Housing Development**

Demolish existing outbuildings on site and the construction of 167 no. residential units; 98 no. apartments and 69 no. houses, a childcare facility and all associated site and infrastructural works.

#### **Location**

Carrickmines Great, c. 750m south of M50 Motorway Junction 15 (Carrickmines) & c.300m to south-east of Glenamuck Road South, immediately east of Cairnbrook residential development ([www.carrickminesgreatshd.ie](http://www.carrickminesgreatshd.ie))

#### **Planning Authority**

Dun Laoghaire Rathdown County Council

**Applicant**

Grafton Issuer DAC

**Prescribed Bodies**

Transport Infrastructure Ireland  
Uisce Eireann

**Observer(s)**

1. Adrian Raynolds
2. Aidan & Grainne Tiernan
3. Barbara Dempsey
4. Brendan Doyle
5. Carmel Conroy
6. Carrickmines Preservation Association CLG
7. Clodagh McWilliams
8. David & Nuala O'Connell
9. Davin Mac Ananey
10. Dervla O'Leary
11. Eddie & Suzanne Goggins
12. Farhan Tareen
13. Harry Simpson
14. Ian Larmour
15. John O'Leary
16. Jonathan Huet
17. Maurice Clifford
18. Melissa & Tom McKeena
19. Michael Doyle
20. Nessa Lehane

21. Paul O'Leary
22. Sean & Ann Murphy
23. Sheena & Michael Gunning
24. Susan Jenkins
25. Suzanne Kelly
26. Zahid Bari & Family (BPS  
Planning)

**Date of Site Inspection**

21<sup>st</sup> June 2023

**Inspector**

Irené McCormack

## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The subject site has a stated area of c. 3.056 Hectares (which includes 3.028 hectares of site area controlled by the applicant and 0.026 hectares for connections to services in Cairnbrook as per easements). The site is located in the suburb of Carrickmines and Glenamuck, South Co. Dublin. This site is c. 750m south of the M50 Motorway Junction 15 (Carrickmines) and c.300m to the south-east of Glenamuck Road South, immediately east of Cairnbrook residential development.
- 2.2. The site is a greenfield site. The boundaries are predominantly defined by mature hedgerows and trees. There are a number of derelict structures located in the north-eastern corner immediately north of an overhead 110kV power line which traverses the site running in an east-west direction. There is a right-of-way and drainage ditch located to the west of the site. There is another small right-of-way feature within the site to the northeast. The subject site is also subject to a gradient, falling from east to west.
- 2.3. The lands are bound to the north by the rear gardens of three large detached residential properties with access from Springfield Lane. The Carrickmines Manor residential development is situated further north on the opposite side of Springfield Lane. The eastern and south-eastern boundaries are formed by a private section of Springfield Lane which serves a number of one-off dwellings and an equestrian centre. To the west, the site is bound by the side gardens and cul-de-sac of Cairnbrook residential development which is accessed off Glenamuck Road South. To the south and south-west, the site borders the rear and side gardens of Rockville Drive, an established residential road (and the site of the permitted

development permitted under Reg. Ref.: PC/H/01/19) in Rockville Drive / Glenamuck Cottages.

- 2.4. Access is proposed is via the Cairnbrook residential estate and onto Glenamuck Road. Glenamuck Road South is the main arterial route linking the R117 Enniskerry Road to the M50 motorway. Access is also available from Springfield Lane to the north and a portion of the eastern site boundary. Springfield Lane is a relatively narrow rural road which serves 7 no. detached dwellings, an equestrian centre and agricultural buildings.
- 2.5. The site has good links to public transport being within walking distance of the Luas Green Line Ballyogan Stop and within 500 metres of bus services (no. 63). The existing bus route will be replaced with an improved new BusConnects Route L26 Kiltiernan – Blackrock.
- 2.6. There are no recorded archaeological monuments within the proposed development site. The closest recorded monument is a cross-base (DU026-018) which is located in close proximity to the north-east of the subject site.

### 3.0 **Proposed Strategic Housing Development**

#### 3.1. The application comprises:

The demolition of existing outbuildings on site and provide for the construction of 167 no. residential units, a childcare facility with a GFA of 188 sq.m., associated internal roads, pedestrian and cycle paths, open space, and all associated site and infrastructural works.

The residential component of the development consists of 98 no. apartments and 69 no. houses, to be provided as follows:

- 30 no. 1-bed apartments;
- 47 no. 2-bed apartments;
- 21 no. 3-bed apartments;
- 43 no. 4-bed (Type A, A1 and D) houses;
- 26 no. 3-bed (Type B, C and E) houses;

The 98 no. apartments are to be provided within 3 no. apartment buildings of 5 no. storeys in height, each over basement level, with adjacent surface car parking. The houses consist of 2 and 3 storey terraced, semi-detached and detached dwellings.

The proposal contains a total of 237 no. car parking spaces, including 173 no. at surface level and 64 no. at basement level, 253 no. bicycle parking spaces, including 34 no. at surface level and 219 no. secure spaces at ground floor level of the apartment buildings, and 6 no. motorcycle parking spaces at basement level. The vehicular access to the development is to be provided from Cairnbrook residential estate to the west, including associated works to facilitate same. A vehicular entrance is also proposed from Springfield Lane to access the house proposed on the northern part of the site. Pedestrian and cycle links are proposed to Springfield Lane to the north and to link to the permitted development (Reg. Ref.: PC/H/01/19) at Rockville Drive / Glenamuck Cottages to the south.

Bin stores, plant rooms and block cores are located at basement and ground floor level of the apartment buildings. The proposed development includes private amenity space, consisting of balconies / terraces for all apartments and private gardens for the houses, public and communal open space, including children’s play areas and an ancillary play area for the childcare facility, PV panels and green roofs at roof level of the apartment buildings, public lighting, utilities infrastructure and an ESB Substation. The proposal includes all associated site and infrastructural works, including tie-ins to existing infrastructure in the Cairnbrook residential estate, foul and surface water drainage, attenuation tanks, hard and soft landscaping, boundary treatments, internal roads, cycle paths and footpaths. This is an application for a seven-year planning permission.

3.2. Key Development Statistics are outlined below:

	<b>Proposed Development</b>
<b>Site Area</b>	3.056ha gross / 3.028 ha. Net
<b>No. of Units</b>	167 Residential Units

<b>Density</b>	55 uph (based on net site area of 3.028 ha)
<b>Height</b>	2 and 3 storeys houses 3 no. 5 storey apartment blocks over basement level
<b>Dual Aspect</b>	Apartments - 55 units (56%) All houses dual aspect
<b>Other Uses/Residential Amenity</b>	Childcare Facility – 188sqm
<b>Public Open Space</b>	4,600 sq.m (c. 15% of the site area) inclusive of 348sqm children's play area.
<b>Car Parking</b>	237 no., 6 no. motorbike parking spaces
<b>Bicycle Parking</b>	253 no.

3.3. Unit mix is as follows:

<b>Unit Type</b>	<b>No. of Units</b>
<b>Apartments</b>	<b>Total: 98</b>
1 bed	30 no. (18% of total, 31% of apartments)
2 bed	47 no. (28% of total, 48% of apartments)
3 bed	21 no. (12% of total, 21% of apartments)
<b>Houses</b>	<b>Total: 69</b>
3 bed	26 no. (16% of total, 38% of houses)
4 bed	43 no. (26% of total, 62% of houses)

3.4. The application included the following:

Planning Reports:

- Statement of Response to the Board's Opinion
- Planning Report and Statement of Consistency
- Social and Community Infrastructure Audit / Assessment
- Material Contravention Statement

### Architecture:

- Architectural Drawings and Drawing Schedule
- Technical Document, including a schedule of accommodation and HQA and Design Statement

### Engineering:

- Engineering Drawings and Drawing Schedule
- Engineering Assessment Report
- Flood Risk Assessment
- DMURS Statement of Consistency
- Preliminary Construction and Environment Management Plan
- Traffic and Transport Assessment
- Travel Plan
- Public Transport Capacity
- Cycle Audit Report
- Response to DLRCC Drainage Department
- Response to DLRCC Transportation Report
- Response to An Bord Pleanála Opinion
- Surface Water Audit
- Road Safety Audit

### Landscape:

- Landscape Drawings and Drawing Schedule
- Design Rationale - Landscape Architecture
- Arboricultural Assessment and Drawings

### Environmental Reports:

- Appropriate Assessment Screening Report



- Environmental Impact Assessment Screening Report
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C)
- Ecological Impact Assessment Report including the following appendices:
  - Value Of Ecological Resources
  - EPA Impact Assessment Criteria
  - NBDC Records of Invasive Plants & Rare or Protected Species
  - In-Depth Flora Survey and Hedgerow Assessment
  - Amphibian Survey Report
  - Bat Survey Report
  - Operations Environmental Management Plan
  - Invasive Alien Species Management Plan
- Hydrological and Hydrogeological Assessment
- Landscape and Visual Impact Assessment
- Verified Photomontages and CGI's brochure.
- Archaeology and Cultural Heritage Report

#### Microclimate Assessment

- Noise & Vibration Impact Assessment
- Resource & Waste Management Plan
- Operational Waste Management Plan

#### Mechanical and Electrical Engineering

- Mechanical and Electrical drawings and Drawing Schedule
- Public Lighting Report
- Energy, Utilities and Telecommunications Statement

#### Other Reports

- Daylight & Sunlight Assessments report

- Building Lifecycle Report
- Property Management Strategy Report

#### 4.0 **Planning History**

##### Subject site

**Ref. No. PL 06D.226710 ( D06A/1434)** Permission refused on the 12th of May 2008 for development at the subject site described as demolition of the existing uninhabited structure on site and the construction of a residential development with an overall gross floor area of 15,756.2 sq.m consisting of 58 no. two / three storey dormer style residential dwelling houses, with vehicular and pedestrian access from Glenamuck Road via the vehicular entrance and internal access road permitted under Register References D00A/0970 and D01A/0701 (Cairnbrook Development). The application also included provision for the culverting of an on-site watercourse.

There was only one reason provided which related to prematurity, and was as follows:

“Having regard to the traffic levels arising from the existing and permitted development in the area, the recent adoption of the Kiltarnan/Glenamuck Local Area Plan and having regard to the deficiencies of the existing roads in the area to cater for the additional traffic which would be generated by the implementation of the Local Area Plan, as well as the general growth in traffic, it is considered that the proposed development would be premature pending the determination by the planning authority of the road authority of the final road layout for the area or part thereof and arrangements for the upgrading of the existing road network”.

##### Relevant Adjoining Recent Planning History

To the west of the site - Ashwood Farm, Glenamuck Road South,

Reg. Ref. ABP313963-22 - Planning permission sought for permission for a part Build to Rent (BtR) and part Build to Sell (BtS) Strategic Housing Development. The demolition of the existing structures at Ashwood Farm is permitted under the extant Dun Laoghaire-Rathdown County Council planning permission (Reg. Ref:

DA21/0143). The development, with a total gross floor area of c.28,145 sq.m, will consist of: the construction of 305 residential units including; 289 Build to Rent apartments across 5 blocks (A-E) ranging in height from 6 to 7 storeys over basement incorporating: 142 1-bed and 147 2-bed apartments, all with private amenity space in the form of balconies and/or ground floor terraces; and, 16 Build to Sell three-storey 5-bedroom houses incorporating 12 semi-detached and 4 detached houses.

To the northwest of the site - The Leys, Glenamuck Road South

**Reg. Ref. ABP-310089-21 (D21A/0100)** – Permission granted by An Bord Pleanála on 12<sup>th</sup> November 2021 for Demolition of the existing dwelling and ancillary outbuildings (544sq.metres); and the construction of a residential development comprising of 61 no. dwellings in total, consisting of 7 no. three-bedroom mid terrace two storey houses, 2 no. three-bedroom end of terrace two storey houses and 2 no. four-bedroom end of terrace three storey houses (11 no. houses in total); 11 no. one bedroom apartments, 29 no. two bedroom apartments and 10 no. three-bedroom duplex apartments (50 no. apartments in total) in 3 no. blocks ranging in height from 3 to 5 storeys, to include associated balconies and terraces.

4.1. Glenamuck Districts Road Scheme

**Reg. Ref. ABP303945-19 & 304174-19**– Permission granted on 18th December 2019, under section 51 of the Roads Act 1993 for development consisting of two key elements; the Glenamuck District Distributor Road and the Glenamuck Link Distributor Road (Road Scheme), described as follows:

- The Glenamuck District Distributor Road (GDDR) - consisting of approx. 660 metres of two-lane single carriageway from the Enniskerry Road North tie-in to the Glenamuck\_District Road junction and approx. 890 metres of four-lane dual carriageway from this junction to the Golf Lane Roundabout.
- The Glenamuck Link Distributor Road (GLDR) – approximately 1,800 metres of two lane single-carriageway road which will connect the new Glenamuck District Distributor Road with the existing Glenamuck Road, Ballycorus Road,

Barnaslingan Lane and Enniskerry Road and will provide an alternative to the Enniskerry Road for north-south travel through the village of Kiltiernan.

The proposals include the addition of new junctions and the inclusion of a Cul-De-Sac element at Barnaslingan Lane.

[www.dlrcoco.ie/en/capital-programme/glenamuck-district-roads-scheme](http://www.dlrcoco.ie/en/capital-programme/glenamuck-district-roads-scheme) sets out that work should commence in Q1 2023 on the Glenamuck District Distributor Road (De La Salle grounds Stepside to Carrickmines roundabout) with completion in Q4 2023. Work will then commence on Glenamuck District Link Road (to Kiltiernan). The road scheme is scheduled to take about 2 years.

- 4.1.1. The subject site is located within the area identified as “Phase 1(a) - A; Glenamuck Road upper/north portion”. It is stated that this area could accommodate up to 200 dwelling units in advance of the delivery of the Distributor Road Scheme.

A review of the Planning Authority’s on-line planning application data indicates that a total of 146 units (11 units under Reg. Ref.: D14A/0766 + 28 units under Reg. Ref.: D14A/0765 & PL06D.244520 + 31 units under Reg. Ref.: D15A/0443 + 15 units under Reg. Ref.: D17A/0520 + 61 units under Reg. Ref. D21A/0110 & ABP Ref.: 310089-21) –have been permitted in Phase 1(a)-A since the adoption of the LAP.

## 5.0 **Section 5 Pre-Application Consultation -312243-21**

- 5.1. A Section 5 pre-application virtual consultation took place on the 20<sup>th</sup> of April 2022 in respect in respect of a development for the construction of 168 no. residential units (69 no. houses, 99 no. apartments), creche and associated site works. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Compliance with specific objectives of the Kiltiernan LAP 2013 - 2023 for Land Parcel 31A.
- Phasing
- Height & Massing
- Daylight, Sunlight, Overshadowing Assessment.

- Visual Impact
- Transportation and deliverability of connectivity and the GDDRS
- AOB

5.2. Copies of the record of the meeting and the inspector's report are on this file.

In the Notice of Pre-Application Consultation Opinion dated 21<sup>st</sup> April 2022 (ABP-312243-21) An Bord Pleanála stated that it was of the opinion that the documents submitted constitute a reasonable basis for an application for strategic housing development. The opinion also stated that the following specific information should be submitted with any application for permission:

1. In accordance with section 5(5)(b) of the Act of 2016, as amended, any application made on foot of this opinion should be accompanied by a statement that in the prospective applicant's opinion the proposal is consistent with the relevant zoning objectives of the development plan for the area. Such statement should have regard to the development plan or local area plan in place or, likely to be in place, at the date of the decision of the Board in respect of any application for permission under section 4 of the Act.
2. In accordance with section 5(5)(b) of the Act of 2016, as amended, any application made on foot of this opinion should be accompanied by a statement that in the prospective applicant's opinion the proposal is consistent with specific objectives of the Kiltiernan LAP 2013 - 2023 for Land Parcel 31A. Such statement should have regard to the development plan and or local area plan in place or, likely to be in place, at the date of the decision of the Board in respect of any application for permission under section 4 of the Act.
3. A detailed statement demonstrating how the phasing, unit mix and building height proposed is appropriate, given the statutory development plan and LAP in place at the time a decision is made.
4. A detailed statement demonstrating further justification and clarity of the proposal with respect to:

(i) access to the site via Cairnbrook estate, pedestrian routes and flow and cycle connectivity and links to adjoining lands.

(ii) proposals to further increase the degree of permeability to the creche building.

5. A detailed Traffic Impact Assessment and Mobility Management Plan.
6. A detailed statement, which should provide adequate identification of all such elements and justification as applicable, where / if the proposed development materially contravenes the statutory County Development Plan or LAP for the area other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.
7. Detailed landscape drawings that illustrate hard and soft landscaping, useable communal open space, meaningful public open space, quality audit and way finding. The public open space shall be usable space, accessible and overlooked to provide a degree of natural supervision. Details of play equipment, street furniture including public lighting and boundary treatments should be submitted.
8. A Daylight and Shadow Impact Assessment of the proposed development, specifically with regard to:
  - Impact upon adequate daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies.
  - Impact to any neighbouring properties devoid of proposed and existing landscaping and trees.
9. Additional CGIs are required, as well as a Landscape and Visual Impact Assessment with photomontages, to include, long range and consideration of winter views from the surrounding areas.
10. An up to date Ecological Assessment and Biodiversity Report inclusive of a Bat Survey and wintering birds survey.

11. Where an EIAR is not being submitted the applicant should submit all necessary information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 for the purposes of EIAR screening.
12. A response to matters raised within the PA Opinion submitted to ABP on the 4th February 2022.
13. A life cycle report shall be submitted in accordance with section 6.13 of the Sustainable Urban housing: Design Standards for New Apartments (2020). The report should have regard to the long-term management and maintenance of the proposed development. The applicant should consider the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the apartment buildings, landscaped areas, child friendly spaces, pathways, and all boundary treatments. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development.
14. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
15. Site Specific Construction and Demolition Waste Management Plan.
16. Details of public lighting.

5.3. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- Dun Laoghaire-Rathdown County Childcare Committee

#### 5.4. ***Applicant's Statement***

5.4.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the documentation submitted would constitute a reasonable basis for an application for strategic housing development. Therefore, a statement in

accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.

5.4.2. However, I note a Statement of Response to ABP's Opinion has been submitted. I note the item raised in the Opinion have been addressed.

## 6.0 **Relevant Planning Policy**

### 6.1. ***Kiltiernan- Glenamuck LAP 2013 (extended September 2023)***

The land use zoning map notes the site is within the boundary of an LAP. The relevant LAP is the Kiltiernan Glenamuck Local Area Plan 2013-2018 (extended to Sept. 2023). The site is located within the land parcel '31A'

Section 2.2 of the plan sets out a broad framework and principles of development including objectives RE01-RE09 relating to residential development, and which includes RE03 which seeks to facilitate the provision of appropriate densities and a mixture of dwelling types and tenures taking into account proximity to public transport corridors, site topography, sites of archaeological interest/protected structures and natural features.

Chapter 4: Residential Development

Section 4.2: Residential Density Table 4.1: Areas/Extent of Residential: Parcel 31(a): 45-55 No. dwellings per hectare

Section 4.7: Urban Design Issues

Section 4.8 of the LAP states that building heights up to 5 storeys will be supported in certain locations, consistent with existing permitted heights in the area. The LAP states that: "*Within the Medium-Higher Density Res. zone, while 3-4 storeys would generally be encouraged, up to five storeys will be acceptable but these elements should be focused primarily on the proposed distributor road, and as corner elements at road junctions*"

Chapter 6: Environmental Infrastructure

Section 6.6: Electricity:



Section 6.6.1: Existing Services: For planning and development purposes, certain limits are imposed on building adjacent to transmission lines, especially in the case of suburban-type residential developments and commercial/industrial developments. These restrictions are as follows: - 110kV Lines: A minimum lateral clearance of 20 metres either side of the centreline (i.e. a 40m wide restricted corridor). A clearance of 23 metres must be allowed for any tower leg. - 220kV Lines: A minimum lateral clearance of 30 metres either side of the centreline (i.e. a 60m wide restricted corridor).

Section 6.6.3: Undergrounding of ESB Cables: - Objective EI13: It is an objective of the Council that high voltage transmission lines in the Plan area be undergrounded, both to improve the visual amenities of the area and to remove the constraints to development presented by the lines. To this end, the Council will work with Eirgrid, ESB Networks and other relevant stakeholders. To encourage and/or facilitate the undergrounding of the Arklow-Carrickmines double circuit 220/110kV transmission line and the Carrickmines-Fassroe 110kV transmission lines Nos. 1 and 2. Where undergrounding is not feasible, to sensitively incorporate any restriction corridors associated with said powerlines into the design of future developments.

Section 10 relates to Phasing - The site is located within Parcel 31A - Phase 1(a) – A- Glenamuck Road upper/north portion’ as indicated on the LAP Phasing Map.

Section 10.6 of the LAP outlines that provision for the development of up to 700 no. housing units can be accommodated on an upgraded road network in advance of construction of the Glenamuck District Distributor Road Scheme (GDDRS), now referred to as the Glenamuck District Roads Scheme (GDRS), and that the development of additional units in excess of these 700 dwelling units would require the construction of the Glenamuck District Distributor Road Scheme roads.

LAP section 10.6 sets out 13 criteria to be considered in the case of developments in advance of that scheme, with the following locations to be considered as part of Phase 1:

Phase 1(a) to comprise c. 350 dwelling units:

A. Glenamuck Road Upper / North Portion (c. 200 dwelling units). This area encompasses the lands designated as 'medium / higher density residential' at the northern section of Glenamuck Road.

B. Node at junction of Enniskerry and Glenamuck Roads (c. 150 dwelling units). This area includes the lands designated as 'medium density residential' to the east of Enniskerry Road. Any proposed developments must include the improvement of the Glenamuck Road.

In relation to surface water attenuation the following is noted:

"In advance of the construction of the Regional Surface Water Attenuation Ponds it will be necessary to incorporate stringent Sustainable Drainage Systems (SUDS) measures on each development site. In particular for all sites whose site plan area is greater than 0.5 hectares (ha) or where the number of residential units proposed exceeds twenty (20) or whose proposed commercial area exceeds 500 square metres it is proposed to require the preparation of Stormwater Impact Assessments and Stormwater Audits".

Phase 1(b) to comprise c. 350 dwelling units: C. Concentrated at village core / along Enniskerry Road. Including lands zoned as 'neighbourhood centre' and 'residential' along the Enniskerry Road. Development is dependent on delivery of a traffic calming scheme and must include the improvement of the Enniskerry Road through the 'village core'.

The site is within Phase 1(a) B and Phase 1(b) (c) as per the LAP phasing map. The 13 planning criteria to be used in the assessment of planning applications up to 700 dwellings are as follows:

1. Conformity with the Kiltiernan / Glenamuck Local Area Plan, 2013-2019, and which promotes and facilitates the achievement of its vision and objectives.
2. Demonstration of a high level of architectural quality and urban design and are sympathetic to the special character of Kiltiernan / Glenamuck.
3. Achievement of local road / footpath improvement and traffic management measures.

4. Consolidation of the existing development node at Glenamuck Road (northern section), including 'The Park' development at Carrickmines.
5. Consolidation of Kiltiernan village.
6. Planned within the context of an overall outline Master Plan for individual and affiliated land holdings (in order to prevent piecemeal development).
7. Compatibility with later phases of development.
8. Facilitation of the orderly development of adjoining property/land holdings.
9. Proximity to the Luas Line B1 and within the catchment area for the Section 49 Supplementary Development Contribution Scheme for Luas Line B1.
10. Availability of environmental services. Specifically, the Council will monitor and have regard to capacity at the Shanganagh Wastewater Treatment Works to ensure that wastewater from any proposed development in the LAP area can be accommodated in accordance with the Wastewater Discharge License for the Works.
11. Incorporation of acceptable Sustainable Drainage System (SUDS) measures on each development site.
12. Likelihood of early construction.
13. Provision of an appropriate level of active and passive open space and community facilities. Specifically, the Council, in conjunction with the Department of Education and Skills, will have regard to the capacity of local schools to accommodate development, in accordance with the "Code of Practice on the Provision of Schools and the Planning System."

The development site is within LAP land parcel 31A of the LAP. It is suitable for Medium / Higher density residential development such as apartments, duplexes, terraces, detached. The site is constrained by access which is off a private roadway, overhead powerline and archaeology site.

Chapter 11: Planning Guidelines for the Development Land Parcels and expands on the building height limits for development parcel 31a, as follows: "31a – Max. 4

storeys, however, heights of buildings located in eastern portion of the site to be restricted because of the elevated nature of the site.”

## 6.2. ***Dun Laoghaire Rathdown County Development Plan 2022 -2028***

Zoning -The application site is zoned Objective A - To provide residential development and improve residential amenity while protecting the existing residential amenities.’ Residential use is permitted in principle under this zoning designation. Childcare service use is also is permitted in principle, subject to the use not having adverse effects on the ‘A’ zoning objective.

The subject site adjoins lands zoned Objective B- “To protect and improve rural amenity and to provide for the development of agriculture”.

Map 9 Stepside - Objective SLO 80, it is an objective of the Council - To accord with the policies of the adopted Kiltiernan/ Glenamuck Local Area Plan.

The site is not located within an Architectural Conservation Area, or a Candidate Architectural Conservation Area and no Protected Structures are located in proximity of the site.

There is a Recorded Monument DU026-018 A Cross Base located just outside the site at the northeastern corner.

A portion of the northern section of the site lies with a 110KV restriction corridor.

### Chapter 2 – Core Strategy

**Table 2.7** of the plan indicates the housing target up to Q1 2028 is 18,515, which is reflective of the target outlined in the RESE. This equates to a population increase of 38,125. Table 2.9 of the Plan indicates that there are approx. 553.28 ha. of serviced land available.

**Policy Objective PHP 18: Residential Density:** It is a Policy Objective to: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the

protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.

**Policy Objective PHP19: Existing Housing Stock – Adaptation:** It is a Policy Objective to: Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

**Section 4.3.1.1 sets out further guidance on density.**

**Policy Objective PHP27: Housing Mix:** It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

**Section 4.4.1** relates to Quality Design and Placemaking

**Policy Objective PHP35: Healthy Placemaking:** It is a Policy Objective to: Ensure that all development is of high quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES. Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013). Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

**Policy Objective PHP42: Building Height:** It is a Policy Objective to: Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF). The Councils Building Height Strategy is in Appendix 5.

## **Chapter 8 -Green Infrastructure and Biodiversity**

**GIB18: Protection of Natural Heritage and the Environment** It is a Policy Objective to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated areas of high nature conservation value known as locally important areas which also serve as 'Stepping Stones' for the purposes of Article 10 of the Habitats Directive.

**GIB19: Habitats Directive** - it is a Policy Objective to ensure the protection of natural heritage and biodiversity, including European Sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines

**Section 12.3.5 Apartment Developments, Section 12.3.3.1 Residential Size and Mix, Table 12.1 Apartment Mix Requirements:**

Table 12.1 Apartment Mix Requirements

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and duplexes)	3+ bed Requirement (Apartments)
New Residential Community (See figure 2.9 Core Strategy Map)	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units and with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Lands within SUFP	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 40% 3+ bedroom units
Existing Built up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 20% 3+ bedroom units

The following are also considered to be relevant Policy Objective PHP 35: Healthy Placemaking; Policy Objective PHP37: Public Realm Design; Policy Objective T1: Integration of Land Use and Transport Policies; Policy Objective T11: Walking and Cycling.

Section 12.3.3.2 Residential Density, Section 12.8.11 Existing Trees and Hedgerows.

6.3. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located with the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The followings RPOs are of particular relevance:

***RPO 3.2:*** Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

***RPO 4.3:*** Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

***RPO 5.3:*** Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

***RPO 5.4:*** Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'.

‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

**RPO 5.5:** Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

#### Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

The Strategy sets out the necessary transport provision, for the period up to 2035, to achieve the above objective for the region, and to deliver the objectives of existing national transport policy, including in particular the mode share target of a maximum of 45% of car-based work commuting established under in “Smarter Travel – A Sustainable Transport Future”.

#### 6.4. **National Planning Framework**

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



- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 63: Ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

#### 6.5. ***Section 28 Ministerial Guidelines***

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).
- Design Manual for Urban Roads and Streets (DMURS December 2013) (as updated) (Including Interim Advice note Covid-19 May 2020).
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the ‘Apartment Guidelines’).

#### 6.6. ***Applicants Statement of Consistency***

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the South Dublin County Development Plan 2022-2028 and other regional and national planning policies. This has been examined and noted.

#### 6.7. ***Material Contravention Statement***

- 6.7.1. The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and Kiltiernan Glenamuck Local Area Plan 2013-2018 (as extended to Sept. 2023) (hereinafter ‘LAP’) in relation to (i) Section 12.3.3.1 of the Development Plan as it relates to unit mix, (ii) Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height, (iii) Section 10 of the LAP as it relates to phasing, (iv) Section 12.3.5.2 of the Development Plan as it relates to separation between blocks, (v) Section 12.4.5.3 and Table 12.5 of the Development Plan as it relates to Car Parking, (vi) Section 12.8 of the Development Plan as it relates to Public Open Space, (vii) Section 12.3.5.3 of the Development Plan as it relates to External Storage, and (viii) map

based objectives 'to protect and preserve Trees and Woodlands'. The statement is summarised below: -

**6.7.2. Section 12.3.3.1 of the Development Plan – Unit Mix**

Section 12.3.3.1 of the Development Plan sets out quantitative standards for residential size and mix. Table 12.1 sets out the mix requirements for apartment developments. For schemes in New Residential Community areas as defined in Development Plan Figure 2.9 Core Strategy Map, the requirements for Apartment Developments are as follows:

- Maximum 60% studio, one and two bed units;
- Maximum 30% of the overall development as a combination of one bed and studio;
- Maximum 20% of the overall development as studios;
- Minimum 40% 3+ bed units

It is recognised that the proposed mix would not be consistent with the Development Plan requirements as while the overall unit mix comprises 54% 3+ bedroom units, the provision of 21% 3+ bedroom apartments ,does not meet the criteria for a minimum of 40% 3+ bedroom units for the apartment element as set out in Table 12.1 of the Development Plan.

Similarly, while the overall unit mix comprises 18% 1 bedroom units, the provision of 31% 1 bedroom apartments does not meet the criteria for a maximum of 30% as set out in Table 12.1 of the Development Plan.

The proposed unit mix is considered to be justified in the context of national planning guidelines supporting the provision of a mix of unit types in suitable locations and the Apartment Guidelines 2020, including Specific Planning Policy Requirement 1 (SPPR1) and provisions supporting the delivery of a greater percentage of 1 and 2 bed units in new developments having regard to reducing household sizes.

**6.7.3. Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height.**

The proposed development includes building heights ranging from 2 storey houses to 5 storey apartment buildings. The LAP recommends heights of 2 to 4 storeys in this location and the Development Plan refers to the LAP as setting the height guidance for this area, or alternatively justifying greater heights under SPPR 3 and the specific criteria in the Building Height Strategy

Objective PHP42 of the Development Plan relates to building height and Appendix 5 of the Development Plan is a Building Heights Strategy for the County. Policy PHP42 is as follows: “It is a Policy Objective to: • Encourage high quality design of all new development. • Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).”

Policy Objective BHS2 as set out in Section 4 of the Building Height Strategy is as follows: *“Policy Objective BHS 2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan). It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in this County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dun Laoghaire Urban Framework Plan area). Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria. Within the built up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.”*

Section 4.2.4 of Appendix 5 refers to the height strategy for the Kiltiernan / Glenamuck area as set out in the LAP and states that: ‘It is considered that

Kiltiernan falls into what would be defined as a suburban/edge location in the Guidelines. Section 3.6 of the guidelines state that “an effective mix of 2, 3 and 4 storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets”. And that “There is potential for increased height for buildings that front onto the proposed Kiltiernan Glenamuck District Distributor Road”.

The Strategy goes on to state that in those instances, any such proposals would be subject to providing adequate amenity for future residents and would have to be assessed in accordance with any new performance criteria as set out in section 5 of this Building Height Strategy as per SPPR 3.

In respect to the LAP, Section 2.2.1 provides guidance on the building heights within the Glenamuck node, within which the application site is located, and states the following: “Heights permitted would generally range from 3-5 storeys, which would be comparable to and compatible with existing permitted heights in the area”.

‘Land Parcel 31a’ and is within an area with proposed building heights of 2-4 storeys. Chapter 11 of the LAP, which sets out the planning guidelines for the development land parcels, confirms and expands on the building height limits for development parcel 31a, as follows: “31a – Max. 4 storeys, however, heights of buildings located in eastern portion of the site to be restricted because of the elevated nature of the site.”

Thus, the proposed apartment building heights of 5 storeys could be considered to contravene the building height guidance of up to 4 storeys for Land Parcel 31a of the LAP.

Section 4.8 of the LAP states that building heights up to 5 storeys will be supported in certain locations, consistent with existing permitted heights in the area. The LAP states that: “Within the Medium-Higher Density Res. zone, while 3-4 storeys would generally be encouraged, up to five storeys will be acceptable but these elements

should be focussed primarily on the proposed distributor road, and as corner elements at road junctions.”

Notwithstanding that the proposed site is not located on the proposed distributor road or at a road junction, the proposed building heights of 5 storeys for the apartment buildings, is considered to be justified in the context of the Building Height Guidelines and having regard to recent permissions in the area.

#### 6.7.4. **Section 10 of the LAP – Phasing**

The site is located within Land Parcel 31a of the LAP, within ‘Phase 1(a) – A-Glenamuck Road upper/north portion’ as indicated on the LAP Phasing Map. For the purposes of clarity in relation to the 2016 Act, which states that An Bord Pleanála may grant permission for a development which materially contravenes policies and objectives of a Development Plan or Local Area Plan, other than in relation to the zoning of land, it is set out that the phasing requirements of the LAP, are not included on the LAP land use zoning map and are not considered to be objectives in relation to the zoning of land for the purposes of section 9(6)(b) of the 2016 Act.

Section 10.6 of the LAP outlines that provision for the development of up to 700 no. housing units can be accommodated on an upgraded road network in advance of construction of the Glenamuck District Distributor Road Scheme (GDDRS), now referred to as the Glenamuck District Roads Scheme (GDRS), and that the development of additional units in excess of these 700 dwelling units would require the construction of the Glenamuck District Distributor Road Scheme roads.

Based on DLRCC’s capital programme information on their website the GDRS is expected to commence in late 2022 / early 2023 with a c. 2 year build period.

The locations and quantum of development that would generally be considered as part of Phase 1 is set out in the LAP and these are presented in Table 3.1. The phasing is further broken down with specific dwelling allowances for Phase 1 (a)

and (b) and (c). The allocation for Phase 1(a) “A. Glenamuck Road Upper/North portion”, within which the site is located, is c. 200 dwellings.

Currently, the available data indicates that the overall quantum of permissions across the LAP area stands at between 900 no. and 1,152 no. units, which at either the higher or lower figure, already exceeds the 700. unit cap. Notwithstanding this, An Bord Pleanála have continued to grant permission for additional units within the LAP area given the existing capacity of the road network in the area, the need for housing to be delivered on suitably zoned lands, and given the progress made on the GDRS, with recent permissions noting that the new road infrastructure is likely to be implemented in a similar timeframe to the delivery of residential units.

**Table 3.1: Location and quantum of LAP Phase 1 development**

PHASE	AREA REF	LOCATION REF	PERMISSIBLE INTERIM DEVELOPMENT	ZONING / DENSITY
Phase 1(a)	A	Glenamuck Road upper/north portion	c. 200 units	Medium-higher density residential
Phase 1(a)	B	Enniskerry and Glenamuck Roads junction node	c. 150 units	Medium density residential
Phase 1(B)	C	Village core / along Enniskerry road	c. 350 units	Lands zoned 'Neighbourhood Centre' and 'Residential'
Phase 1	Total		c. 700 units	

For development to avail of the interim phasing arrangements the LAP sets out a suite of 13 criteria that must be met. These criteria and compliance have been addressed in Appendix 1 of the statement.

However, in these circumstances should the proposed development be considered to materially contravene the provisions of the LAP in respect to phasing, as set out in Section 4 the proposed development is considered to be justified in the context of national planning guidelines supporting the delivery of housing on suitably zoned lands, the timelines for the delivery of the permitted

GDRS and having regard to recent permissions in the area, and the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended.

**6.7.5. Section 12.3.5.2 of the Development Plan – Separation Distances**

Section 12.3.5.2 of the Development Plan includes the following guidance in terms of separation distances between buildings in residential schemes: *“All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows, in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.”*

In respect to the separation distance between apartment blocks, approximately 5m and 6m is provided between Apartment Block 01, 02 and 03, and this is based on the design of the buildings and the location of secondary windows in these locations.

It is further set out that the separation distance between the apartment buildings, from the proposed houses and from one adjacent house, may not be considered to comply with Section 12.3.5.2 of the Development Plan.

It is set out that the proposed separation distances are considered to be justified in the context of the guidance set down in the Apartment Guidelines 2020, and which in turn is supported by the daylight and sunlight analysis undertaken by



Digital Dimensions, which is addressed separately in the Daylight & Sunlight Assessment.

#### 6.7.6. **Section 12.4.5.3 of the Development Plan - Car Parking**

Section 12.4.5.3 of the Development Plan sets out car parking standards for all residential development. Table 12.5 sets out the Car Parking Zones and Standards for car parking. The subject site falls under Development Plan Parking Zone 3.

The car parking standards for Parking Zone 3, as set out in Table 12.5 of the Development Plan, are as follows:

- 1 car parking space per 1 bed and 2 bed apartments or houses
- 2 car parking spaces per 3+ bed units
- Plus 1 car parking space for visitors per 10 apartments units.
- 1 car parking space per 40 sq.m GFA for Childcare Facilities

The scheme requires a total of c. 272 no. car parking spaces under the Development Plan requirements, c. 129 for the apartments, 138 no. for the houses and 5 no. for the childcare facility. 3.40 The total of car parking spaces proposed is 237 no. car parking spaces, comprising 99 no. for the apartments and childcare facility and 138 no. in-curtilage for the houses. It is proposed to allocate 4 no. drop off spaces for the childcare facility, which can be utilised by visitors out of hours. No other visitor parking is proposed. The level of car parking proposed equates to a shortfall of c. 35 no. spaces for the apartment units under the development plan requirements and a rationale for same is provided in the TTA, as supported by the Travel and Public Transport Capacity Report.

The level of car parking provision is considered appropriate in the context of the guidance set down in the Apartment Guidelines 2020, and that a reduction on the maximum requirements is acceptable in the context of the site's location, public transport accessibility and the number of bicycle parking spaces provided within the scheme, and the Board is empowered to, and should, decide to grant

permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended.

#### **6.7.7. Section 12.8 of the Development Plan – Public Open Space**

Categories of open space are set out in Table 12.7, with public open space classified as follows:

*“Public open space is defined as being generally freely available and accessible to the public, and in the case of certain residential developments has, or is intended to be, ‘taken-in-charge’ by the Local Authority.*

*In all new residential development schemes, there should be some appropriate provision made for public open space within the site. In all instances where public open space is not provided a contribution under Section 48 will be required for the short fall.”*

The quantum of public open space required in residential development is set out in Table 12.8 of the Development Plan. For residential development in new residential communities the public open space requirement is 15% of total site area.

As set out in Section 12.8.2 and 12.8.3 of the Development Plan: “To qualify as public open space the area must be designed and located to be publicly accessible and useable by all in the County; generally free from attenuation measures; and capable of being taken in charge (i.e. must accord with the Council policy on taking in charge of open spaces).”

Section 12.8.5 of the Development Plan states the following: “Fragmented open spaces within a development layout, which result specifically from the necessity to protect existing site features (for example a stand of mature trees) may not be included in the calculation of open space requirements, as they are necessary to ensure the protection of existing amenities.

Section 12.8.3.1 of the Development Plan acknowledges that in certain instances it may not be possible to provide the above standards of public open space. All applications for residential schemes should include a clear written schedule and colour coded drawing with public, private and communal open space provision identified. The written schedule shall include the County Development Plan requirements, the proposed provision and full details of any short fall.

In relation to the quantum of public open space to be provided, based on a net site area of 3.056 ha, the public open space requirement for the proposed scheme is 4,584 sq.m. (15% of 3.056 ha). As illustrated in the OMP Design Statement and drawings, and the Landscape drawings and report prepared by DLFA, a total of 4,600 sq.m of public open space is provided within the development. The quantum of public open space provided meets the minimum standard set out in the Table 12.8 of the Development Plan.

In relation to the requirement for public open space to be generally free from attenuation measures; and capable of being taken in charge (i.e. must accord with the Council policy on taking in charge of open spaces), notwithstanding that a portion of the open space includes attenuation measures, the proposed development is not proposed to be taken in charge and all public open space will be managed by a professional management company.

In relation to the requirement for public open space calculations to exclude open spaces which result from the necessity to protect existing site features such as mature trees we acknowledge that the public open space calculation includes the ecological corridor/ a hedgerow zone along the eastern boundary. Therefore, should the Planning Authority consider that the open space provided does not meet the requirements of the Section 12.8 of the Development Plan, the applicant accepts that a payment of a contribution in lieu of any shortfall in the quantum of public open space can be applied under Section 48 of the Planning and Development Act 2000, as amended.

However, should the Board consider that a shortfall in public open space areas, and that the payment of a contribution in lieu is not appropriate, and therefore a

material contravention arises, the public open space is considered appropriate in the context of the Sustainable Residential in Urban Areas 2009 which provides for flexibility in relation to the application of public open space standards in favour of an emphasis on qualitative standards including biodiversity space and of SUDS measures, and also provide for the payment of a contribution in lieu where it is deemed that there is a shortfall in the provision of public open space, and the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended

**6.7.8. Section 12.3.5.3 of the Development Plan –External Storage**

Section 12.3.5.3 of the Development Plan, states the following: “*Apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements. These storage units should be secure, at ground floor level, in close proximity to the entrance to the apartment block and allocated to each individual apartment unit.*”

The Development Plan does not include quantitative standards for the external storage areas.

184 sq.m of storage is provided at ground floor level of the apartments for the storage of bicycles and bins, additional external storage for the storage of bulky items has not been provided within the scheme. The quantum of storage provided for the apartments is considered to be justified in the context of the guidance set down in the Apartment Guidelines 2020 in relation to the provision of storage space for apartments, and the provisions contained therein for the storage of bulky personal or household items, and the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended.

**6.7.9. Objectives to Protect and Preserve Trees and Woodlands**

The Development Plan map-based objectives for the site include two specific objectives “to protect and preserve Trees and Woodlands”.

Section 12.8.11 of the Development Plan states: *“New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives to protect and preserve trees and woodlands (as identified on the County Development Plan Maps). The tree symbols on the maps may represent an individual tree or a cluster of trees and are not an absolute commitment to preservation. Decisions on preservation are made subject to full Arboricultural Assessment and having regard to other objectives of the Plan.*

*Arboricultural Assessments carried out by an independent, qualified Arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation. The assessment shall contain a tree survey, implications assessment and method statement. The assessment of the site in question will inform the proposed layout, in relation to the retention of the maximum number of significant and good quality trees and hedgerows. Tree and hedgerow protection shall be carried out in accordance with BS 5837 (2012) ‘Trees in Relation to Design, Demolition and Construction – Recommendations’, or any subsequent document. All requirements for Arboricultural Assessment should be determined at pre-planning stage.*

*The retention of existing planted site boundaries will be encouraged within new developments, particularly where it is considered that the existing boundary adds positively to the character/visual amenity of the area. New developments should have regard to the location of new buildings/extensions relative to planted boundaries. Prior to construction, the applicant shall provide details of adequate measures on site to protect all planting/ trees to be retained and this protection shall be maintained throughout the development during the construction period. An ecological assessment of existing hedgerows shall be required where new developments potentially impact on their ecological importance. This should be*

*carried out by a suitably qualified ecologist, and submitted at pre-planning stage, to inform the design and accompany the planning application.*

*In addition, the approach set out in the 'How to Guide Hedgerows for Pollinators' should be followed, as appropriate. Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition. A financial bond may be required to ensure protection of existing trees and hedgerows during and post construction."*

It is considered the development provides for a balanced approach to tree protection, removal, and mitigation via additional tree planting, and that in light of the Arboricultural assessment and landscape proposals, and the ecological assessment undertaken, the proposed development does incorporate as far as is practicable the retention of existing trees and hedgerows.

The proposed development will mitigate the loss of trees outlined in the arborist's report with the introduction of a significant level of tree planting, which is recognised in the Arborists report. Also, the EclA submitted finds that, the following the implementation of the landscape plan, public lighting plan, surface water drainage infrastructure and the mitigation measures outlined in the EclA and the arborist report, there will be no significant negative impacts on local ecology as a result of the proposed development.

Thus, while an element of removal is proposed, the development plan specifically notes that objectives to protect and preserve trees and woodland are not an absolute commitment to preservation, and that decisions on preservation are to be made subject to full Arboricultural assessment. This approach has been followed in respect of the current application. The Landscape Design Statement and drawings prepared by DFLA provide further details in respect of hedgerow and tree retention, tree planting proposals, and measures being taken to enhance the value of the site and retained hedgerows for pollinators.

Therefore, a justification has been set out herein to justify the proposals, which follow the approach set out in relation to objectives to protect and preserve trees and woodlands at Section 12.8.11 of the Development Plan as explained above.

In the event that the Board considers the proposed development to contravene the objectives “to protect and preserve Trees and Woodlands” pertaining to the site. In that scenario, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended. It is highlighted that objectives, including tree objectives, on the Development Plan maps are not considered to be objectives in relation to the zoning of land for the purposes of section 9(6)(b) of the 2016 Act. They are specific map-based objectives.

#### **6.7.10. Justification For Material Contravention in Context of Section 37(2)(B) Criteria**

The Material Contravention Statement details policies and objectives in the National Planning Framework, Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly, Urban Development and Building Height Guidelines 2018’ (Building Height Guidelines), Apartment Guidelines 2020 and Sustainable Residential Developments in Urban Areas 2009 and considers that there is sufficient justification for the material contravention of the Development Plan.

### **7.0 Third Party Submissions**

7.1. 26 no. submission were received. The concerns raised are summarised below: -

#### **Design and Layout**

- Concerns regarding the siting and design, the development does not integrate in the rural character of the area – revised layout needed, impact on Cairnbrook and Rockville Drive.
- No basis for proposed building heights
- Concerns around scale and density – justification at this location

- Proximity of development to site boundaries, in particular nos. 10 and 11 Cairnbrook.
- Impact on residential amenities of no. 13 Cairnbrook including existing view.
- Issues of security.
- Impact on adjoining B zoned lands
- Proposed does not address the transitional location.
- Development would be out of character and would constitute overdevelopment.
- Visual Impact- External finishes and materials
- Impact on residential amenity – overlooking, overbearing appearance, overshadowing, encroachment and loss of amenity.
- Lack of open space
- Landscaping – impact on existing trees and hedgerow and lack of mitigating landscaping.
- Impact on existing green space at end of Cairnbrook cul de sac.
- Concerns regarding boundary treatments and inconsistent approach
- Premature pending Glenamuck Distributor Road
- Premature in terms of the arrangements of 10K power lines. Restrictive corridors are not identified.
- Concerns regarding risk of flooding
- Impact on existing services – water and wastewater
- Construction impacts – noise and dust, construction hours
- 7-year permission is excessive

### **Traffic and Transport**

- Development would create a traffic hazard.



- High level of car dependency.
- Concerns regarding the capacity of the road network to cater for development.
- Previous refusal for deficient roads
- Premature pending road infrastructure improvements
- Springfield lane should be the primary access /egress to the site during construction.
- Suggestion that Springfield lane is upgraded and used as the primary access to alleviate impact on Cairnbrook .
- Springfield lane as an access point is unsafe and unsuitable and has not been surveyed and should be improved prior to any works commencing. No lighting of public footpath along the lane.
- Springfield lands is a private lane - Impact on the right-of way.
- Concerns regarding construction impacts noting previous experience.
- The documentation has not appropriately examined the capacity of the existing junction serving Cairnbrook.
- Concerns regarding increased volumes of traffic, the traffic study understates the traffic volumes proposed traversing Cairnbrook estate. Estate road too narrow to cater for increased volumes.
- The existing traffic congestion at Cairnbrook would be exacerbated. Holistic traffic assessment to include Cairnbrook suggested.
- Insufficient car parking provision and proposed use of shared services is likely to cause a problem.
- The creche will generate additional traffic during rush hour.
- Inadequate existing and proposed footpath and cycle path infrastructure
- Lack of public transport provision in the area
- Concerns regarding emergency access

## **Biodiversity**

- Concerns regarding potential bat roosting locations where trees are proposed for removal.
- Insufficient survey work to address bats, -Bat assessment unclear and incomplete.
- Concerns regarding loss of trees.
- Proximity to The Dingle Glen pNHA
- Concerns regarding impact of construction traffic on biodiversity along the lane
- Ecological Impact Assessment does not address the context of the development with respect to bat fauna on site.
- EIA screening does not identify how the adjacent archaeological is not significant in respect of the development.

## **Material Contravention**

- The extent of material contravention required to facilitate the development is excessive.
- The development is contrary to and a material contravention of the sites zoning.
- The development is inconsistent with the specific objectives 31A of the Kiltarnan LAP 2013-2023, quantum of housing prior to the delivery of the distribution road already exceeded.

## **Other Matters**

- Springfird lane prone to flooding as a result of insufficient surface water infrastructure in Cairnbrook. Concerns regarding the amalgamation of these services.
- Negative impact on property values and anti-social behavior.

- Request for a condition to carry out a condition survey on Cairnbrook properties and implement measures to protect same.
- Request for site hoarding to be condition for agreement with residents of Cairnbrook.
- Validity of application queried- No documentation from third parties relating to works proposed outside of site boundaries with particular reference to the removal of trees, no letter of consent from Cairnbrook estate submitted.
- No Quality Audit submitted.
- Query status of CDP and LAP policies if not adhered to
- Springfield not mentioned in the planning notices for construction traffic.
- Concerns regarding additional archaeology on site and an appropriate buffer should be provided to protect the Recorded Monument.
- Inconsistencies in the application documentation in relation to buildings to be demolished on site.
- It is set out that the applicant has not addressed all matters raised at pre-planning.

## 8.0 **Planning Authority Submission**

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 30<sup>th</sup> September 2022. The report includes a summary of the pre-planning history, statutory context, site location and description, third-party submissions and prescribed bodies, relevant planning history, the proposed development, internal reports and policy context.

The views of the elected members presented at the Dun Laoghaire HEPI ACM , on 5<sup>th</sup> September 2022 are summarised as follows: Welcome mix of houses and apartments, query overbearing and overshadowing noting site levels, anomaly of distances between units, traffic and permeability – impact on adjoining estates,

access through Cairnbrook queried, relatively rural road network at a distance from the Luas, concerns regarding archaeological study, concerns regarding Part V provisions, Concerns regarding impact on trees.

The views of the Special Dundrum Area Committee HEIP, on 6<sup>th</sup> September 2022 are summarised as follows: Concerns regarding height and design, traffic and permeability – not in favour of access via Cairnbrook, conditions required to minimise disruption, concerns for pedestrians and cyclists, also proximity to equestrian centre, emphasis should be on sustainability and the provision of public transport to serve the development., capacity of the road network, car parking provision , permeability welcome. Archaeology, Part V, Ecology, Open Space provision and flooding all raised as concerns. Provision of community facilities to be addressed. A welcome development and planning should be granted. Reports from the Drainage, Department, Transportation Planning, Biodiversity Officer, Housing Department, Environmental Enforcement Section, Public lightings, Environmental Health officer have also been provided.

8.2. The key planning considerations of the Chief Executive's report are summarised below.

### ***Principle of Development***

- Principle of residential development and childcare facility is compatible with the land use zoning.
- The principle of development is consistent with National and Regional policies objectives.
- Consistent with Policy Objective PHP18: Residential Density to promote compact growth... and PHP19: Housing Stock – Adaptation to densify existing built-up areas.

### ***Red Line Boundary***

- The proposed development boundary overlaps a permitted Part 8 housing scheme (PC/H/01/19) and will materially impact the scheme notably the

private amenity space of House Type B located in re southwestern corner of the site.

- Permission should be refused on this fundamental issues.

### ***Density***

- Section 12.3.3.2 relates to optimising density and Policy Objective PHP18: Residential Density of the CDP seek to maximise the use of zoned land serviced land and that consolidation through sustainable higher densities allows for a more compact urban growth ...
- Policy Objective PHP18 includes reference to the Sustainable Residential Development in Urban Areas Guidelines and accompanying 'Urban Manual' and recommendations regarding appropriate densities for various types of locations.
- Policy Objective PHP:20 Protection of Existing Residential Amenities noted.
- Overall density of 55 units per hectare based on 167units on a net site area of 3.028ha.
- Proposed density in accordance with LAP. However, the site is considered a greenfield site and the provisions around PHP18 and PHP20 are less relevant than if it were a brownfield site. Provisions around zoning Objective A as they relate to projecting existing residential amenity apply.

### ***Residential Accommodation and Mix***

- Section 4.3.2.3 and Policy Objective PHP27 of the CDP relates to housing mix.
- SPPR1 of the Apartment Guidelines (2020) provide for Development Plans to specify a mix for apartments or other housing developments based on an evidenced HNDA .
- The site is located in an area designated as 'New Residential Community; figure 2.9 of the Core Strategy Map. Table 12.9 of the CDP relates to Apartment Mix Requirements.

- The 3+ bed units amount to 54% of the overall scheme. This does not comply with table 12.1 and contrary to PHP 27. Refusal recommended.
- In the event permission is granted a condition requiring the apartment unit mix to comply with Table 12.1 recommended.

### ***Residential Unit Standards***

#### Apartment Floor Areas

- The proposed one-bedroom, two-bedroom (4 person) and three-bedroom apartments would meet or exceed the requirements of SPPR 3 of the Apartment Guidelines and Section 12.3.3.3 Minimum Apartment Floor Areas of the CDP
- Private open space meets or exceeds the minimum requirements under Appendix 1 of the Apartment Guidelines and Section 12.8.3.3(ii) of the CDP.
- Query re. quantum of open space for unit no. 02.03.05 as this is not indicated in the technical document prepared by O'Mahony Pike.

#### Dual Aspect

- No apartment both single aspect and north facing.
- 56% of apartments would achieve dual aspect.
- In accordance with Section 12.3.5.1 of CDP and SPPR4 of Apartment Guidelines

#### Unit Per Core

- All apartments' blocks will comprise no more than 12 units per core in accordance with Section 12.3.5.6 of CDP and SPPR6 of Apartment Guidelines

### ***Building Height***

- The site is deemed to be located in a 'suburban/edge location' as per Building Height Strategy definition within the Kiltiernan LAP. Section 3.6 of the LAP establish a building height of 2,3 and 4 storeys with potential for increased height alongside existing large buildings, trees or parklands,

river/sea frontage or along wider streets or fronting onto the Kilternan Distributor Road.

- The site is identified as Parcel 31a within the LAP. This sets out a maximum of 4 storeys.
- Notwithstanding, the site is considered to fall under the category for which increased height is supported as per Policy Objective BHS 2 including assessment against performance-based criteria set out in table 5.1 ...
- It is considered that the proposed development would comply with the criteria as set out in Table 5.1 of the Building Height Strategy as set out in Appendix 5 of the CDP 2022-2028
- The removal of one floor from block 1 is recommended, given its location and proximity to the eastern side boundary.

### ***Design and Layout***

- The proposed urban grain is considered to respond to the existing natural and built environment.
- Concerns have been raised about inconsistency in the reports submitted regarding access arrangements. Figure 17 in the Travel Plan prepared by Waterman Mylan Consulting Engineers limited indicates pedestrian/cyclist access as a 'site access road' which is similar to a principal vehicular access. Concerns around issues raised in the Quality Audit noted.
- The use of red brick in the apartment blocks contrary to section 4.7 of the LAP under policy objective BF04 – to encourage the incorporation of granite and granite features. Revised proposal to address recommend.
- Minimum separation distance in accordance with section 12.3.5.2 Separation between blocks of the CDP not achieved between Block 1 and 2, Block 2 and 3 and Block 3 norther elevation and front elevation 2-storey dwellings.

### ***Impact on Adjoining Residential Amenities***

- It is considered that the development as proposed is adequate to protect against overshadowing impact or undue overlooking of adjacent built form.

- Concerns expressed about visual impact when viewed from existing adjacent residential properties and 'B' zoned lands to the east, due to the transitional nature of the site.

### ***Open Space Provision and Public Realm***

- Section 12.8.8.1 of the CDP requires 15% public open space.
- The development would include 15% open space however having regard to the quality and usability of the open spaces proposed the PA considers that the 'entrance place area' presents as a narrow strip and not useable and would be excluded from the calculation. In addition, the area between apartments 02 and 03 present as an entrance area associated with the apartment block or a link to open space to the east rather than useable open space. The scheme therefore falls short of the 15%.
- Notwithstanding the shortfall in quantum the PA note the potential to include a levy under section 48 of the Planning and Development Act 2000 in relation to the deficit.
- Communal open space is considered to meet the requirements of section 12.8.3.2 of the CDP. It is noted that public and communal space would adjoin each other and that in general there should be a distinction with an appropriate boundary treatment and/or privacy strip. This should be addressed.
- The Arboriculture impact and the extent of tree and hedgerow removal noted and the impact on biodiversity and bat population.

### ***Childcare Facilities***

- According to the Childcare Guidelines, the proposed childcare facility is adequately sized to cater for the potential demand generated by the development and in accordance with Policy Objective PHP6 of the CDP whereby childcare facilities are considered to be integral to new residential development.

### ***Drainage***



- Referencing the contents of the Drainage Planning Report dated 02.09.2022 the submitted plans generally satisfy the requirements of Drainage Planning subject to conditions.
- It is noted that Drainage Planning consider the submitted SFRA acceptable.

### ***Transportation, Parking and Access***

- Transportation Planning report recommending refusal set out.
- Until the GLDR is constructed Transportation Planning consider the proposed residential development premature. The cap of 700 units set out in Section 10.6 of the LAP has already been exceeded.
- Concerns that the development will prevent access and permeability to adjoining to adjoining to the south and east and create a ransom strip.
- Concerns regarding general compliance with DMURS within the scheme. Junctions are poorly designed, not clear what priority line is, some junctions have not aligned crossing points or no crossing points, the arm between units 53 and 63 should be designed as a higher road hierarchy with dedicated footpaths on both sides.
- Basement/Undercroft car parking poor with no circulation. Large cul-de-sacs should not be provided.
- The Quality Audit raised a number of series issues with regard to the general layout that requires a full redesign of the scheme that cannot be overcome by compliance.

### ***Public Lighting***

- Public lighting section report noted.

### ***Archaeological Interest***

- Reference made to the submission of Archaeological and Cultural Heritage Report and mitigation measure set out therein.

### ***Refuse Management, Scheme Management and Construction Details***

- Refers to Environmental Enforcement Report

- Reservation about construction noise limits and lack of details provided in the Preliminary Construction and Environmental Management Plan.
- EHO report noted.
- Development considered acceptable subject to conditions.

***Part V***

- Appropriate condition regarding Part V recommended.

***Taking in Charge***

- No part of the proposed development is to be taken in charge.
- In the event planning is granted all works to be conditioned to be carried out to the County Council's standards
- A condition relating to a management company to be included.

***Building Life Cycle Report***

- Submitted in accordance with 6.13 of the Design Standards for New Apartments

***Ecological Impacts***

The DLR Biodiversity Officers report noted and reasons for refusal set out, including incomplete EclA:

- No operation impacts are assessed for Dingle Glen pNHA
- Insufficient evaluation of groundwater dependent habitats and wetland fauna
- Insufficient evaluation of species-rich grassland habitat
- Insufficient assessment of impacts to import habitats with affinity to Annex 1 habitats.
- Insufficient evidence that measures to mitigate impacts to important habitats.
- Insufficient evidence that measures to mitigate impacts to wetland fauna.
- Insufficient in terms of residual impacts on important wetland and grassland habitats with affinity to Annex 1 habitat.

***Development Contributions***

- Development located in an area subject to two supplementary Section 49 contribution schemes, the Glenamuck Road Scheme and the Luas Line B1 scheme.

### ***AA/EIA***

- Notes ABP competent authority

### ***Third Party Submissions and Observation***

- Submissions acknowledged and noted as part of assessment.

### ***Conclusion***

The planning authority recommends refusal for the following reasons:

1. The proposed development would be premature by reference to the existing deficiencies in the road network serving the area of the proposed development and the period in which constraints involved may reasonably be expected to cease, resulting in significant intensification of vehicular traffic where deficiencies in capacity, width, alignment and structural condition of the road prevail. The area has reached capacity in terms of unit numbers and no further development can take place until these infrastructure developments have been constructed. As such the proposals are contrary to Section 10.6 of the Kiltiernan Local Area Plan would thus be contrary to the proper planning and sustainable development of the area.
2. The proposed development would endanger public safety as a result of the poor internal site layout and access junctions, the intensification of additional traffic/pedestrians accessing the proposed development, and the lack of safe pedestrian and cycling facilities leading to relevant transportation nodes (bus stops, footpaths and cycle network). In addition, the proposed development is considered premature because of the lack of adequate, safe pedestrian facilities on Glenamuck Road. It is considered that the proposed development would be contrary to SLO 80 of the current County Development Plan. The development would thus be contrary to the proper planning and sustainable development of the area.

3. The Planning Authority has significant concerns that the SHD planning applications red line boundary appears to overlap with lands permitted for a DLRCC Part 8 Housing Scheme located to the southwest of the subject site. The proposed development has not supplied and documentation to demonstrate consent for the proposed works.
4. Having regard to the insufficient and incomplete submitted Ecological Impact Assessment, the impact of the proposed development on the Dingle Glen pNHA , including the impacts of the proposed development in the flora and fauna of the site and surrounding area, have not been fully considered and therefore the proposed development has not demonstrated that it complies with Policy Objective GIB21:Designated Sites and Section 12.7.2 of the Dun Laoghaire Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development on the area.

8.2.1. DLRCC also recommends conditions to be applied in the event that the Board decides to grant permission, including:

Condition no .2 which required reived red line boundary to address Part 8 planning permission.

Condition no. 3 relates to omission of top floor of apartment block 01 reducing the height from five to four storeys.

Condition no. 4 relates to revised unit mix in accordance with Table 12.1 of the CDP.

Condition no. 10 (a) – (s) relates to measure to address road safety.

Condition no. 12 relates to (a) the engagement of a qualified ecologist (b)submission of a standalone Habitat and Species Management Plan (c) implementing mitigation (d) landscaping and planting, (e)/(f) related to external illumination, (g) compliance with Tree Protection Plan , (h) Submission of measures to address potential disturbance on Dingle Glen (i) submission of Invasive Species Management Plan, (j) No clearance to take place during bird breeding season (k)/ (l) final CEMP to be submitted for agreement 5 weeks prior

to commencement (m) Submission of a detailed site specific Operations Environment Management Plan. (n) Monitoring reports from ecologist (o) monitoring reports from invasive species specialist.

## 9.0 **Prescribed Bodies**

### **Uisce Éireann**

In respect of Water: New connection to the existing network is feasible without upgrade.

In respect of Wastewater: New connection to the existing network is feasible without upgrade.

Design Acceptance: The applicant (including any designers/contractors or other related parties appointed by the applicant) is entirely responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary which is necessary to facilitate connection(s) from the boundary of the Development to Irish Water's network(s) (the "Self-Lay Works"), as reflected in 2 Uisce Éireann Irish Water the applicants Design Submission. A Statement of Design Acceptance was issued by Irish Water on 7<sup>th</sup> July 2022.

Planning Recommendation: Irish Water respectfully requests the board condition(s) any grant as follows:

1. The applicant shall sign a connection agreement with Irish Water prior to any works commencing and connecting to the Irish Water network.

2. Irish Water does not permit any build over of its assets and separation distances as per Irish Waters Standards Codes and Practices shall be achieved.

- (a) Any proposals by the applicant to build over/near or divert existing water or wastewater services subsequently occurs, the applicant shall submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to connection agreement.

3. All development shall be carried out in compliance with Irish Water Standards codes and practices.

## **Transport Infrastructure Ireland TII**

- Have regard to the provisions of Chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012)
- The development falls within an area set out in a Section 49 Levy scheme for Light Rail. No other observations are submitted.

### **10.0 Assessment**

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the chief executive's report, 3<sup>rd</sup> party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Development Strategy
- Residential Amenity
- Site Services, Surface Water and Flooding
- Transport, Parking, Pedestrian/Cycle Facilities, DMURS
- Impact on Biodiversity and Ecology
- CE Report
- Material Contravention
- Other Issues

NOTE: The applicant has submitted a Material Contravention Statement in relation to (i) Section 12.3.3.1 of the Development Plan as it relates to unit mix, (ii) Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height, (iii) Section 10 of the LAP as it relates to phasing, (iv) Section 12.3.5.2 of the Development Plan as it relates to separation between blocks, (v) Section 12.4.5.3

and Table 12.5 of the Development Plan as it relates to Car Parking, (vi) Section 12.8 of the Development Plan as it relates to Public Open Space, (vii) Section 12.3.5.3 of the Development Plan as it relates to External Storage, and (viii) map based objectives 'to protect and preserve Trees and Woodlands'. The relevant technical matters and related development plan policies and objectives are addressed in each section, with the details of Material Contravention dealt with separately below.

NOTE: The attention of the Board is drawn to the fact that The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The amended Guidelines came into effect on 22nd December 2022.

\*I wish to draw the Board attention to the fact that The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The amended Guidelines came into effect on 22nd December 2022. Transitional arrangements are set out in Circular Letter NRUP 07/2022, which states: All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21st December 2022 will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8. My assessment is therefore based on the 2020 Apartment Guidelines.

\* I note the 2022 Apartment Guidelines are consistent with the 2020 Apartment Guidelines with the exception that the updated Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to BTR development.

## 10.2. Principle of Development

### 10.2.1. Principle

The proposed development comprises the demolition of existing outbuildings on site and the construction of 167 no. residential units; 98 no. apartments and 69 no. houses, a childcare facility and all associated site and infrastructural works.

With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned Objective A - '*To provide residential development and improve residential amenity while protecting the existing residential amenities*' in the Dun Laoghaire Rathdown County Development Plan 2022-2028. Residential use is permitted in principle under this zoning designation. Childcare service use is also permitted in principle, subject to the use not having adverse effects on the 'A' zoning objective.

The subject lands have also been identified for 'Medium / Higher Density Residential' development in the Kiltiernan Glenamuck Local Area Plan, 2013 (extended 2023). Moreover, the application site forms part of a larger landbank identified as Parcel 31(a) in Table 4.1: 'Areas / Extent of Residential' of the Local Area Plan wherein it is envisaged that residential development should occur at a density of 45-55 no. dwellings per hectare. In addition to the foregoing, it should also be noted that whilst the immediate site surrounds are somewhat rural / undeveloped in character, the prevailing pattern of development in the wider area is dominated by conventional housing construction such as the Carrickmines Manor and Cairnbrook residential schemes and more recently mixed residential typology schemes including duplex and apartment typologies. In this respect I would further suggest that given the site location relative to the urban fringe of the wider Dublin City area, the proposed development site can be considered to comprise an 'outer suburban / greenfield' location and thus I would draw the Board's attention to the 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' which generally promote increased residential densities in appropriate locations including on outer suburban / 'greenfield' lands such as the proposed development site.

Therefore, having considered the available information, including the site context, I am satisfied that the overall principle of residential development with associated uses is considered in accordance with the zoning objectives. I note the CE report raised no concerns in this regard.

#### 10.2.2. Quantum & Phasing



Development within the Kiltiernan area is subject to significant road infrastructural improvements. The principal road improvements relate to the Glenamuck District Distributor Road (GDDR) and Glenamuck Local Distributor Road (GLDR) to bypass Kiltiernan village (both referred to as the Glenamuck District Road Scheme – GDRS), facilitating the development of the village centre and a new civic node.

Permission for this road infrastructure including a CPO was granted by An Bord Pleanála in December 2019 (application reference PL06D.303945 and PL06D.304174). A Part 8 application for the Enniskerry Road/Glenamuck Road Junction Upgrade was granted in 2017. This road will function as the main collector/distributor route, connecting the roundabout to the south of the M50 Motorway Junction 15 (Carrickmines), to the Enniskerry Road north of Kiltiernan with a link to the Ballycorus Road.

Section 10 of the Kiltiernan-Glenamuck LAP identifies that the existing road infrastructure in its current condition is not capable of serving the transport needs from zoned lands in the LAP area and that future development is heavily dependent on improved road infrastructure. Notwithstanding the need for this significant new road infrastructure to be implemented in order to unlock the full development potential of the LAP lands, Section 10.5 of the LAP provides for some interim development to be facilitated in order to meet the central objectives of the LAP. Of relevance, I note also that section 2.16 *Local Area Plan-Making Programme* of the Development Plan 2022-2028 establishes that the LAP 2013 (extended 2023) is broadly consistent with the Core Strategy.

The site is located within Land Parcel 31a of the LAP, within 'Phase 1(a) – A-Glenamuck Road upper/north portion' as indicated on the LAP Phasing Map. Section 10.6 of the LAP outlines that provision for the development of up to 700 no. housing units can be accommodated on an upgraded road network in advance of construction of the Glenamuck District Distributor Road Scheme (GDDRS), now referred to as the Glenamuck District Roads Scheme (GDRS), and that the development of additional units in excess of these 700 dwelling units would require the construction of the Glenamuck District Distributor Road Scheme roads. The phasing is further broken down with specific dwelling allowances for Phase 1

(a) and (b) and (c). The allocation for Phase 1(a) “A. Glenamuck Road Upper/North portion”, within which the site is located, is c. 200 dwellings.

The Observers, Elected Members and the CE report all raise concerns regarding the quantum and phasing of the development having regard to the above. The CE report recommends refusal on the basis that the development is premature pending the road infrastructure upgrades. The DLRCC website (reviewed 5<sup>th</sup> July 2023) states that the GDRS scheme is at tender stage, the website also states that work should commence in Q1 2023 on the Glenamuck District Distributor Road (running from De La Salle grounds Stepside to Carrickmines roundabout) with completion in Q4 2023. Work will then commence on Glenamuck District Link Road to Kiltiernan. The road scheme is scheduled to take about 2 years with works due to be completed in 2025. There has been no update issued as to the current status of the scheme. The applicant argues that the construction of dwellings on the subject site would coincide with the delivery of the GDRS, if it proceeds as planned.

Appendix 1 of the Planning Report and Statement of Consistency accompanying the planning application sets out that 1,138 units have been permitted in the LAP area since the adoption of the LAP, of which 146 units are within Phase 1(a). Appendix 1 further establishes that of the total permitted units a total of only 246 have either been completed or works commenced. Whilst the available data indicates that the overall quantum of permissions across the LAP area already exceeds the 700-unit cap, it is evident that the subject site is located in an area with a rapidly evolving context. Permission has been granted for the GDRS and a completion date has been indicated by DLRCC and It is likely, therefore, that this road infrastructure would be completed in a similar timeframe to a residential development being constructed on the subject site.

I am of the view that a pragmatic approach must be taken to the consideration of the issue of phasing and the appropriateness of permitting the development in the absence of the fully implemented road scheme. Noting the extant, completed and commenced permission as outlined by the applicant in their submission, it is evident that this quantum of development has not actually been constructed in the

area since the adoption of the plan. Sites that have the benefit of an extant permission remain undeveloped. There is no certainty if or when sites that have the benefit of permission will be developed. In this context, having regard to the fact that works on the GDRS are imminent and the capacity threshold of 200 for Phase 1(a)-A. has not been reached, I consider that the development can be permitted given this road infrastructure is likely to be implemented in a similar timeframe to the development of the site. I note concerns raised that the 7 years planning permission being excessive. In general planning permission lasts for 5 years, I do not consider the addition of two years significant in so far as section 42 of the Planning Act provides for the extension of duration of permission by up to 5 years subject to certain criteria.

The LAP also sets out a suite of 13 criteria that must be met by any development availing of the interim phasing arrangements. The applicant has provided a detailed response to the 13 criteria in table 7.7.6 of the Planning Report and Statement of Consistency. Having reviewed the applicant's submission, I am satisfied that the development phasing is compliant with the criteria.

### 10.2.3. Density

The DLRCC Development Plan policy seeks to maximise the use of zoned and serviced residential land as expressed in policy PHP18, which states that the objective is *to increase the supply of houses and apartments and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites and to encourage higher residential densities.*

The subject lands are within the area identified in the LAP as an upper residential density band and where medium/higher density residential development (45-55 dwelling units/net ha) will be supported. The residential density of the proposed development will be c. 55 units per hectare (167 / 3.028 ha). This density of development is consistent with the density range set out in the LAP and aligns with national and regional policy. I note the CE report considers the density consistent with the LAP provisions.

The "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" (2009) identify locations in cities and larger towns where

increased residential densities are considered appropriate, including “Outer Suburban/Greenfield Sites” and “Public Transport Corridors”. As set out above I consider that the subject site falls within “Outer Suburban/Greenfield Sites” however both of these categories are applicable, given its greenfield nature and its proximity to the Luas Green Line Ballyogan Stop (c.1.7km) and within 500 metres of bus services (no. 63). The existing bus route will be replaced with an improved new Bus Connects Route L26 Kilternan - Blackrock which will operate daily at 30min intervals. The Guidelines state that densities of 35-50 dwellings per hectare are appropriate for Outer Suburban/Greenfield sites, while minimum net densities of 50 dwellings per hectare should be applied within Public Transport Corridors. Contrary to concerns raised by the Elected members and Observers, I consider the site to be well served by accessible public transport.

I note the observers raise concerns about the density proposed, however, in my opinion, the proposed residential density would be appropriate on the subject site having regard to its existing greenfield nature and the character of the existing residential developments on the adjoining Cairnbrook and Carrickmines Manor sites, the evolving context of the area, the need to maximise investment in costly infrastructure including the Glenamuck District Roads Scheme as well as proposed public transport improvements including the proposed bus priority corridor. I am satisfied that the density proposed represents a sustainable and appropriate use of these zoned, serviced and strategically located lands. I consider that a net density of 55 units per ha can be accommodated on the lands without any significant adverse impacts.

#### 10.2.4. Housing Mix

The overall unit mix comprises the provision of 98 no. apartments and 69 no. houses, to be provided as follows, 30 no. 1-bed apartments (31%); 47 no. 2-bed apartments (48%); 21 no. 3-bed apartments (21%); 43 no. 4-bed (Type A, A1 and D) houses; 26 no. 3-bed (Type B, C and E) houses.

Concerns are raised by third parties that there is a requirement for larger family units within the scheme and that the proposed mix is a material contravention of the development plan. Similarly, the CE report considers the unit mix contrary to

table 12.1 and Policy Objective PHP 27 of the CDP. It is the policy of the council as set out in section 4.3.2.3 and Policy Objective PHP27 to *encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA*. SPPR1 of the Apartment Guidelines (2020) provide for development plans to specify a mix for apartments or other housing developments based on an evidenced HNDA. The site is located in an area designated as 'New Residential Community'; figure 2.9 of the Core Strategy Map. Table 12.9 of the CDP relates to Apartment Mix Requirements. Section 12.3.3.1 of the development plan sets out quantitative standards for residential size and mix. Table 12.1 sets out the mix requirements for apartment developments.

The applicant submits that the proposed mix would be a material contravention of the development plan requirements as the apartment unit mix does not meet the criteria set out in table 12.1. While the overall unit mix comprises 54% 3+ bedroom units, the provision of 21% 3+ bedroom apartments, does not meet the criteria for a minimum of 40% 3+ bedroom units for the apartment element. Similarly, while the overall unit mix comprises 18% 1-bedroom units, the provision of 31% 1-bedroom apartments does not meet the criteria for a maximum of 30% as set out in Table 12.1 of the development plan.

The applicant has addressed the proposed unit mix in the submitted material contravention and notes that the unit mix is in accordance with the provisions of SPPR1 of the Apartment Guidelines which states that apartment developments may include up to 50% 1-bed or studio type units (with no more than 20 – 25% of the total proposed development as studio's) and there shall be no minimum requirement for apartments with three or more bedrooms. While it is acknowledged that the proposed unit mix is in accordance with the provisions of SPPR1. It is noted that SPPR1 also states that statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has

been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)

Appendix 2 of the development plan sets out the HNDA for the county. The recommended unit mix is reflective of the standards set out in Table 12.1. As the unit mix outlined in Table 12.1 relates to a standard and not a policy of the plan. Notwithstanding this, having regard to the information provided in the HNDA, in particular, Section 2.9.2 Housing Type and Mix, which is evidence based and robust, I agree with the concerns of the planning authority that there is a demand for larger units within the county.

It is noted that the applicant has not submitted any justification for the unit mix or a demand assessment for the proposed unit mix and relies solely on SPPR1. It is my opinion the applicant has not given due consideration to the HNDA. While a target of a minimum of 40% (39 no.) of 3+bed apartment units is justified by the NHDA, it is my view that due to the design and layout of the scheme, it may not be possible to provide this 40% target without significant alternations to the design and layout and the overall quantum of units to be provided. I am not satisfied that this matter can be addressed by way of condition having regard to HNDA and the provision of policy objective PHP27. I consider the application should be refused for this reason.

#### 10.2.5. Red Line Boundaries

DLRCC has commended construction of 13 no. 2 storey dwellings at Rockville Drive, Glenamuck Road, Carrickmines under Part 8 planning reference PC/H/01/19. This site is located to the southwest of the application site. The CE report outlines that the proposed development boundary overlaps this permitted Part 8 housing scheme and will materially impact the scheme specifically the private amenity space of House Type B located in the southwestern corner of the site. The CE report sets out that permission should be refused on this fundamental issue.

I have reviewed the Part 8 planning application drawings in the context of the current application, and I agree with the PA that the site appears to overlaps the Part 8 site on the southwestern corner such that the private amenities of Block A

(eastern site boundary) and Block B (to the north of the site) would be compromised.

As noted in section 5.13 of the Development Management Guidelines the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land and that these are ultimately matters for resolution in the Courts. On the basis of the detail provided the Board cannot be satisfied that the applicant has sufficient legal interest in all the lands on which the application site is proposed or has the approval of the person(s) who has such sufficient legal estate or interest. I do not consider this matter can be addressed by way of condition as any modification of the site boundary and amendment to the proposed layout would result in material changes to the application.

Concerns were also raised in the observations regarding the validity of the application as no documentation from third parties relating to works proposed outside of site boundaries with particular reference to the removal of trees was submitted and no letter of consent from Cairnbrook estate was submitted in terms of access through the estate. Again, I refer the Board to section 5.13 of the Development Management Guidelines, I would also note that any grant of planning permission will require all works to be carried out within the confines of the site, no works shall be carried out on third party lands with their written consent/approval. I am satisfied this matter can be addressed by condition. Regarding access via Cairnbrook, I note land registry documentation submitted setting out the applicant's right to access the site via Cairnbrook, I will address this matter in more detail in 10.4 Transport, Parking, Pedestrian/Cycle Facilities.

#### 10.2.6. Demolition

Observations were raised regarding inconsistencies in the application documentation in relation to buildings to be demolished on site. The proposed development provides for the demolition of a small complex of structures to the northeast of the site adjacent to Springfield Lane. Site inspection determined that these structures are haphazard and overgrown. The demolition works have been included in the application development description. I further note at the site location map drawing no. 21044-OMP-00-SX-DR-A-100 and site layout plan

drawing no. 21.044-OMP-00-SX-DR-A-100 1 identify the buildings for demolition. In addition, drawing no. 21044-OMP-DM-ZZ-DR-A-100 provides drawings of the structures to be demolished.

This application is accompanied by a Resource & Waste Management Plan prepared by AWN Consulting. The plan provides the information necessary to ensure that the management of Construction & Demolition (C&D) waste. I consider the documentation clear regarding structures to be demolished. I have no objection to their removal.

#### 10.2.7. Conclusion

The principle of the proposed development is in accordance with the zoning objective for the site and I am satisfied that the quantum of development proposed can be accommodated on the site having regard to the interim phasing arrangements set out in the LAP.

Notwithstanding, in accordance with PHP27: Housing Mix and Table 12.1, informed by the demographic and housing analysis carried out as part of the HNDA, it is a policy objective of DLRCC that all residential developments, including apartment developments, in the existing built up area and new residential communities (as set out in Figure 2.9, Core Strategy Map) should provide for a mix of unit types and sizes (Section 12.3.3.1). The proposed unit mix would fail to meet a priority need of the DLR demographic as informed by the demographic and housing analysis carried out as part of the HNDA. There is no substantive evidence to show that the priority need identified in policy had diminished and so the lack of an appropriate mix within the development would fail to meet housing need. Provisions around SPPR1 do not apply in this instance having regard to the evidence based HNDA.

The site appears to overlap with lands permitted for 13 no. 2 storey dwellings at Rockville Drive, Glenamuck Road, Carrickmines under Part 8 planning reference PC/H/01/19. The proposed development has not supplied and documentation to demonstrate consent for the proposed works. I cannot be satisfied that the proposed development will not have a negative impact on the ability to complete the Part 8 permission or the proposed development.



### 10.3. Development Strategy

#### 10.3.1. Design, Form and Layout

A detailed architectural design statement is submitted with the application which sets out clearly the overall architectural rationale and approach. The applicant also provides a detailed statement regarding compliance with the 12 criteria set out in the Urban Design Manual.

The layout provides for the scheme to progress in a west-east directionality through the site. The house type to the west reflects the grain and scale of the detached/ semi-detached houses within Cairnbrook Estate continuing eastward into the proposed development, creating suburban type street frontages with the larger five storey apartment buildings located at the eastern edges of the development backing onto open space. The apartment buildings are located away from the existing housing so that there is a gradual transition in scale from the two storey dwellings in Cairnbrook, to two and a half storey houses in the proposed development and then up to five storey apartment buildings.

The layout provides for open spaces and home zones creating active frontage and good passive surveillance. Active street frontage is created on corner sites with side entrances, feature windows on exposed elevations. Universal design and accessibility has been considered in the layout. A hierarchy of routes and spaces is provided for throughout the development. The house types reflect a contemporary design. In terms of finishes and materials, brick is predominantly used, punctuated with areas of render and stone cladding. Zinc cladding is proposed on the top recessed floor of the apartment's buildings. The variety of material and building forms provide for variety and create different character areas. I note the concerns raised by the observers regarding the design and finishes and in the CE report regarding the use of red brick in the apartment blocks being contrary to section 4.7 of the LAP under policy objective BF04 – to encourage the incorporation of granite and granite features. However, I consider that the design, form and finishes of the house types and apartment blocks acceptable and the contemporary design approach contradicts the traditional

design approach of the adjoining successfully creating a distinctive character to the development.

The layout of the development is quite linear in parts, I accept that this is due to the unusual shape and the topography of the site. Notwithstanding, I consider Units 63B and 64B should be omitted by reason of siting between and associated road alignment and extent of exposed side boundary walls. This area would be better served by a small green space pocket park in addition to enhancing the vista on approach from Springfield Lane and internally within the site.

#### 10.3.2. Standard of Accommodation/Internal Standards

The application is accompanied by a Housing Quality Assessment. The Housing Quality Assessment (HQA) document prepared by OMP outlines compliance of the proposed apartments with the relevant quantitative standards required under the 2020 Apartment Guidelines as incorporated into the CDP 2022-2028. The drawings have also been prepared with regard to the requirements of Section 6 of the Apartment Guidelines, summary of the key points from this is set out below detailing how the scheme compiles with the Specific Planning Policy Requirements set out in the Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities:

- SPPR 3 refers to minimum apartment sizes. The range proposed within the scheme will be 1 bed: 47.-sqm – 53.5sqm, 2 bed: 77.7sqm – 87.7sqm, and 3 bed: 94.7sqm – 100.6sqm all of which exceed the minimum size standards. The guidelines also set out standards for the minimum widths of living/dining rooms and bedrooms and the minimum floor areas of certain rooms within the apartment. According to the HQA, the development complies with all the relevant standards.
- SPPR 4 states that in suburban or intermediate locations, it is an objective that there shall generally be a minimum of 50% dual aspect units. The proposed development includes 56% dual aspect units.
- SPPR 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres. The development proposes a ceiling height of 2.7 metres at ground floor level.

- SPPR 6 states that a maximum of 12 apartments per core may be provided in apartment schemes. Proposed apartment Block 01 has a maximum of 6 apartments per floor per core. Proposed apartment Blocks 02 and 03 have a maximum of 7 apartments per floor per core. The scheme therefore complies with the requirements under SPPR 6, which allows for a maximum of 12 no. apartments per floor per core. SPPR 6 also sets out standards for storage space, in addition section 12.3.5.3 of the CDP, states “*Apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements...*” No quantitative standards for the external storage areas have been included in the CDP. The scheme provides c.184 sqm at ground floor level of the apartments for the storage of bicycles and bins, additional external storage for the storage of bulky items has not been provided within the scheme. In the absence of defined floor area requirements, I am satisfied that the bulky storage area proposed is acceptable, I note the accessible location of these storage areas adjacent to the primary access to the apartment’s buildings.

Standards are also set out for private amenity space. All of the proposed apartments have a balcony that complies with the required size.

- The development is considered to have good internal circulation and has been designed to be safe and secure with good passive surveillance of public spaces. Adequate waste management facilities and additional community infrastructure in terms of the crèche is provided.

- In terms of communal open space, under the guidelines having regard to the proposed apartment mix, the required amount of communal amenity space would be 668 sq. metres. The development provides 700 sq. metres of communal space adjacent to the larger area of public open space. Children’s play has been provided for.

- A Life Cycle Report is submitted in accordance with section 6.13 of the guidelines.

I consider the development is consistent with the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities and

will provide an appropriate standard of amenity for future residents.

The development also includes a number of housing units. All of the houses comply with the qualitative and quantitative standards set out in the Delivering Homes, Sustaining Communities and the accompanying Best Practice Guidelines – Quality Housing for Sustainable Communities and the CDP 2022-2028.

### 10.3.3. Height

The proposed development includes building heights ranging from 2 storey houses to 5 storey apartment buildings. ‘Land Parcel 31a’ establishes proposed building heights of 2-4 storeys. Chapter 11 of the LAP, which sets out the planning guidelines for the development land parcels, confirms and expands on the building height limits for development parcel 31a, as follows: “31a – Max. 4 storeys, however, heights of buildings located in eastern portion of the site to be restricted because of the elevated nature of the site.” Section 4.2.4 of Appendix 5 of the CDP refers to the height strategy for the Kiltiernan / Glenamuck area as set out in the LAP and states that: ‘It is considered that Kiltiernan falls into what would be defined as a suburban/edge location in the Building Height Guidelines.

The Building Height Guidelines acknowledge that building heights must be generally increased in appropriate urban areas. The guidelines under SPPR 3 specifically state that taking into account wider strategic and national policy parameters, that the Planning Authority may approve a development, even where a specific objective of the relevant development plan or local area plan may indicate otherwise. Notwithstanding, the site is considered to fall under the category for which increased height is supported as per Policy Objective BHS 2 of the CDP including assessment against performance-based criteria set out in table 5.1.

Concerns have been raised about the impact on the adjoining ‘B’ - “To protect and improve rural amenity and to provide for the development of agriculture” zoned lands to the east. As noted above, the future development of the lands is predicated on significant new road infrastructure. In this context, it will be important to maximise the return on such investment and ensure that there is an efficient and sustainable use of land within the LAP. The development potential of

the subject lands is also constrained due to the site topography and proximity of existing residential properties on the boundaries and the transitional character of the area adjoining lands zoned Objective 'B'. In this regard, it is important to ensure that appropriate densities are still achieved whilst protecting the visual and residential amenities of the area.

Section 13.1.2 of the development plan establishes that it is important to avoid abrupt transitions in scale in the boundary areas of adjoining land use zones and it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. In addition, section 4.3.1.3 of the development plan states that it is an objective of the Planning Authority to ensure that the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill development.

A statement is provided by the applicant justifying the building heights proposed in the context of *Performance Based Criteria* set out in table 5.1. Appendix 5 of the CDP. It includes an assessment of how the development complies with the criteria for assessing building height at a county level, at district/neighbourhood/street and scale of the site/building and county specific criteria. The applicant makes reference to the specific objectives of the NPF which encourages densification and compact growth. It is also noted that the site is served by existing and planned public transport and that the development will make a positive contribution to place making incorporating new roads, home zones and public spaces, using massing and height to achieve a sustainable residential density but with variety in building scale and form that responds to the scale of the developing area and creates strong open spaces and pedestrian connections.

I note the CE report considers that the proposed development would comply with the criteria as set out in Table 5.1 of the Building Height Strategy as set out in Appendix 5 of the CDP. However, I note the CE report recommends the removal of one floor from block 1, given its location and proximity to the eastern site boundary. I note the building height of building 01 is ca. 2m higher than the

adjoining Building 02, I do not consider this to be significant when considered in context. I further note that the 5<sup>th</sup> floor is recessed adding architectural interest to the form and the removal of the fifth floor would in my opinion reduce the architectural merit of the block. I note the retention of the boundary trees to the east of the apartment blocks and the fact that the landscape continues to rise in an easterly direction. It is in this context that I consider the height of Building 01 acceptable.

The topography of the general area rises in a west to east direction. The site rises from a level of 92m in elevation in the northwest corner to an average of 102m elevation in the southeast corner. The adjacent zoned 'B' lands continue to rise beyond the site and are significantly higher than the subject site rising to ca. 125m. I note the landscaping proposals and tree protection plan submitted propose the retention of trees along the eastern site boundary. This measure combined with the topography provide capacity for the proposed height at this location. In this instance, I am satisfied that the approach to height which is aligned to the overall density of the site is appropriate and in keeping with the development plan. The applicants have responded to the topography of the site and located the taller blocks at the most appropriate locations and set the building lines away from sensitive boundaries. The taller elements of the scheme provide an appropriate visual frame to the areas of open space as well as a strong urban edge along the southeastern boundary.

The LVIA considers that the sensitivity of the receptors is generally medium / low. Of the 15 no. views assessed the LVIA considers that the development would result in a medium magnitude of change, cumulative with the existing environment. The visual effects would be considered neutral to positive. The Landscape and Visual Assessment sets out that through variations in typology and scale the buildings would contribute to diversity, identity and visual interest in the new urban landscape. I would agree and, in my opinion, the proposed height should also be viewed in the changing context of the environs of the site. It is, therefore, considered that the proposed development would have a minimal impact on the visual amenity of the environs when viewed from the middle or long

distance views. It is also noted that the proposed buildings do not impact or impede any protected views.

I am satisfied that the height of the proposed development is appropriate. I consider that the development has sited the taller elements at the most appropriate locations within the site and responds appropriately to the topographical variations across the site. Whilst it is noted the development is in part 5 storeys which is above the height thresholds set out in the LAP, I do not consider this to represent a material contravention of the LAP, given the minimal nature of the additional height proposed and the category for which increased height is supported as per Policy Objective BHS 2 of the CDP including assessment against performance-based criteria set out in table 5.1.

I note the concerns raised by a number of the observers and the elected members regarding the height proposed. The fact that the development context of the area is evolving is acknowledged. Nonetheless, with the development of the proposed new road infrastructure, the character of Kiltiernan will radically change and it will become a new urban quarter. It is in this changing context that the development must be considered.

#### 10.3.4. Landscaping

The primary public open space is located to the southeast of the site to the rear of the apartment blocks in addition to two smaller areas at the centre of the site. The proposed central open space is configured to allow full continuity with the existing open space at Cairnbrook, thereby maximum connectivity and the visual link from east to west through the site. The open space to the east of apartment blocks is accessible via a shared surface home zone to the north and a small plaza area between proposed apartment blocks situated to the west of the public open space. The layout provides new greenway routes as part of a site-wide pedestrian and cyclist connectivity strategy.

The following are the key elements of the landscape proposals.

- Eastern Lane way. It is proposed to retain the existing hedgerow and trees along the eastern lane way where it passes along the site boundary, in order to provide screening of the site from the east.

- Cairnbrook entrance landscaping. Formal planting is proposed along the site frontage to Cairnbrook to form a privacy strip for each street-front dwelling and to green the streetscape.

- Open Space / Communal amenity space, homezones and play areas. Communal amenity space with informal play area is located within the neighbourhood as part of the homezone area. An additional purpose-designed play area with safety surfacing is provided alongside the communal amenity spaces.

All the opens spaces enjoy levels of natural supervision. Regard is also had to the objectives and aims of Chapter 8 (Green Infrastructure and Biodiversity) of the DLR County Development Plan 2022-2028 (in particular the retention of hedgerows: Policy Objective GIB25: Hedgerows), and Appendix 14 (Green Infrastructure Strategy). The layout also provides for the retention of the natural wetland on site in addition to existing site hedgerow boundaries, enhanced where required.

A full tree survey has been submitted with the application. The development plan map-based objectives for the site include two specific objectives “to protect and preserve Trees and Woodlands”. Section 12.8.11 states that new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. The Material Contravention Statement submitted also addresses this issue.

A number of trees, some hedgerows and scrub will be removed to facilitate the development, in summary, 11 of the 39 no. individually surveyed trees, in addition to a group of trees along the northwestern site boundary will be removed. The 11 individual trees for removal are made up of 5 no. category ‘U’ trees, 1 no. category ‘B’, 5 no. category ‘C’ plus 1 Tree Line. Scrub areas within the site and along site boundaries will be cleared. The Arboriculture Impact Assessment states that the loss of the above tree vegetation from this site will be militated against with new tree, shrub and hedge planting that will complement the development and will help to provide good quality and sustainable long-term tree cover. The CE report and observers raise concerns about the extent of tree removal and the associated impact on biodiversity. I would have similar concerns particularly as extensive



works are proposed in and around established site boundaries. I will address this matter in more detail in 10.7 Ecology and Biodiversity below.

#### 10.3.5. Open Space Provision

The landscape drawings accompanying the application establish 4600sqm of public open space, 700sqm of communal open space and 2100sqm of environmental/ecology links including hedgerow running along the eastern site boundary. The 4600sqm of public open space would equate to the 15%, this is compliant with Section 12.8.8.1 of the CDP. Of note no part of the scheme is proposed to be taken in charge.

The main open space is located at the east and south-east part of the site. The Landscape Design statement sets out that this location benefits from passive surveillance and enclosure formed by the proposed apartment blocks and a locating the main open space here allows for the maximum retention of the vegetation to the eastern boundary as well as the provision of verges with pollinator species. This area includes natural play equipment, local mounding, and a large central lawn area. The network of open space is directly connected to the west of the development site with an open boundary to Cairnbrook forming an extended and cohesive overall provision of open space. It is important to note that while the proposed open space ties into the existing Cairnbrook open space, the proposed development does not rely on the Cairnbrook open space to account for the required open space quantum.

The CE report notes the 15% open space proposed however the CE report considers that the 'entrance place area' presents as a narrow strip and not useable and should be excluded from the calculation. In addition, the area between apartments 02 and 03 present as an entrance area associated with the apartment block or a link to open space to the east rather than useable open space. I would agree.

I further note that the applicant in their Material Contravention Statmentent refer to the requirement for public open space calculations to exclude open spaces which result from the necessity to protect existing site features such as mature trees, in this the ecological corridor/ a hedgerow zone along the eastern boundary.

The scheme therefore falls short of the 15%. The CE reports notes the submission of the Parks Dept. and the provisions of Section 12.8.3.1 of the CDP and notes the shortfall in quantum the location of the open space is considered acceptable in the context of the scheme. The potential to include a levy under section 48 of the Planning and Development Act 2000 in relation to the deficit is considered acceptable. I agree and while I have some concerns about that location of the public /communal open space to the rear of the apartments in terms of accessibility, on balance I consider this area will benefit from the retention of existing landscape features and the rural backdrop to the east thereby enhancing the attractiveness and natural aspects of the open space for the benefit of the scheme.

Regarding the provision of communal open space, the 700sqm is considered to meet the requirements of section 12.8.3.2 of the CDP. I note the communal space would adjoin the public open space and as per section 12.8.3.2 there should be a distinction with an appropriate boundary treatment and/or privacy strip between the communal and public open space. The CE report recommends this be addressed by way of condition. However, I am satisfied that these areas are segregated appropriately by way of the landscaping measures proposed.

Section 12.8.3.3(i) of the development plan states that all houses shall provide an area of good quality usable private open space behind the front building line. Minimum open space standards for each house type are provided in Table 12.10 with a requirement of 60sqm for a 3-bed house and 75sqm for a 4+ bed house. The proposed development includes 69 no. houses. The private open space associated with these houses all reach or exceed the minimum standard of 60/75sqm respectively. It is my view that sufficient good quality useable private open space has been provided for each dwelling.

#### 10.3.6. Conclusion

In conclusion, all of the units comply with the relevant qualitative and quantitative standards set out in the apartment guidelines. However, whilst the overall architectural approach and standard of design is acceptable and will provide a high standard of amenity for future occupants the layout does not appropriately

reflect the adjoining permitted Part 8 development as outlined in 10.2 above and this has implications for the site layout, in particular, the boundary treatment along the shared eastern site boundary and the juxtaposition of 19B and 18B as they relate to the permitted Part 8 housing. I cannot be satisfied that the proposed development will not have a negative impact of the permitted Part 8.

#### **10.4. Residential Amenity**

##### **10.4.1. Impact on Established Residential Development**

A number of observers and the elected members have raised particular concerns about the impact of the development on their specific dwelling house, wider concerns also include overlooking, overbearing appearance, overshadowing and loss of amenity.

While it is acknowledged that the overall scheme would be visible from the rear gardens of dwelling houses of the north and from Cairnbrook, particularly the houses to the southeast of Cairnbrook, It is my opinion that the proposed separation distances between the development and the existing houses achieves a balance of protecting the residential amenities of future and existing occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces. In my view that proposed scheme would not result in undue overlooking or result in an overbearing impact on any existing properties or loss of amenity. As a result, I am also satisfied that the development will not devalue properties in the area, a concern raised by the observers.

##### **10.4.2. Separation Distances**

The CE report expresses serious concerns regarding the separation distances between the apartment blocks. The applicant argues in their Material Contravention Statement that this is acceptable based on the design of the buildings and the location of secondary windows in these locations and that this approach is justified in the context of the guidance set down in the Apartment

Guidelines 2020, and which in turn is supported by the daylight and sunlight analysis submitted.

The CE Report states that the separation distance between Block 01 and Block 02, Block 02 and Block 03 (approximately 5m and 6m), and Block 03 and the two-storey units to its north fail to comply with the 22m minimum separation distance between opposing windows as set out in Section 12.3.5.2 of the CDP.

Section 12.3.5.2 states that all proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development. This standard does not relate to a policy within the development plan and there is sufficient flexibility within the wording of the standard, therefore, it is my opinion that this is not a material contravention of the development plan. In my view the provision of 22m separation distances should be balanced with high quality urban design and placemaking considerations, the separation distances proposed are sufficient to ensure high quality residential amenity for existing residential properties.

Regarding the separation distance between the apartment buildings Block 01 and 02, I note the design provides for no directly opposing windows but staggers the windows as a means to address potential overlooking. Whilst this may go some way to addressing overlooking between the apartment blocks, the scheme identifies many of these units as dual aspect and I have serious concerns in this regard given the separation distance, outlook of future residents and the sunlight /daylight considerations. Similarly, the separation distance between apartment building 03 and units 35B- 37B is c. 10m, as a result, I consider that five storey apartment building will have an overbearing impact on the two-storey residence 35B- 37B and a perceived sense of being overlooked by virtue of proximity and

height.

#### 10.4.3. Sunlight/Daylight

The applicant's assessment of daylight, sunlight and overshadowing has regard to the following documents:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020
- BRE BR209: "Site Layout Planning for Daylight and Sunlight" (third edition)
- British Standard EN 17031:2018 'Daylight in buildings'
- IS EN 17037:2018 Daylight in Buildings

I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011), the BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting and the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK).

#### Adjoining Development - Daylight and Sunlight

The BRE guidelines recommended that loss of light to existing windows need not be assessed if the distance to each part of the new development from the existing window is three times or more times its height above the centre of the existing window. The Sunlight/Daylight Analysis submitted determined that there are no existing dwellings within 3 times the height of the apartment blocks.

The BRE document also sets out that if part of a new building measured in a vertical section perpendicular to the main window wall of an existing building, from the centre of the lowest window, subtends an angle of more than 25° to the horizontal, then the diffuse light of the existing building may be adversely affected. The information provided in Section 3.2 of the applicants Daylight and Sunlight Report indicates that there would be no perceptible impact on daylight to 4 & 5 Rockville Drive, 'Carolina' & 'Glenheather', Springfield Lane and 11 Cairnbrook (the windows in these houses do not face towards the proposed development) to the north and west of the site.

The houses that were closest to the proposed development were selected for detailed VSC and APSH assessment no's 10 & 11 Cairnbrook and Southsprings. The BRE guideline recommends that if a window retains a VSC (Vertical Sky Component) in excess of 27% with the proposed development in place then it will still receive enough daylight. If the existing VSC is below 27% or is reduced below 27% and below 0.8 times its former value, then the diffuse light may be adversely affected. A total of 46 windows were assessed. The analysis determined that there will be a small reduction in available daylight to some of the windows facing or adjacent to the proposed development, but all the windows are either not reduced below a VSC level of 27% or retain a VSC level in excess of 80% of their existing value. Any reduction in available daylight from the proposed development will be negligible and meets the recommendations of the BRE guidelines BR209:2022(third edition).

The BRE guidelines recommend assessing window walls that face within 90° of due South, for Annual Potable Sunlight Hours (APSH) & Winter Potable Sunlight Hours (WPSH). One window Id4 to No. 11 Cairnbrook had a reduction in the APSH below the recommended levels. This is part of a bay window, which is under a porch canopy. The analysis determined that sunlight to the main living room to no's 10 & 11 Cairnbrook and Southsprings facing within 90° of due south meet the recommended target APSH levels in the BRE guidelines BR209:2022(third edition). The proposed development meets the recommendations of the BRE guidelines.

### Daylight to Proposed Apartments and Houses

#### *Internal Daylight*

In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. Appendix C of the BRE guide provides details of two methodologies for daylight provision in buildings. One is based on target illuminances from daylight to be achieved over specified fractions of the reference plane (a plane at tabletop height covering the room) for at least half of the daylight hours in a typical year. The other

method is based on calculating the daylight factors achieved over specified fractions of the reference plane.

The Sunlight/Daylight Assessment uses the Illuminance Method. The illuminance methods assess the daylight levels over at least 50% daylight hours in the year and uses a weather file data set. The assessment takes into account the orientation of the space. The compliance calculation is based on an annual, climate-based simulation of interior illuminance distributions. Two target types are set with the following criteria:

- Target Illuminance: 300 lux over 50% of floor area for at least 50% of daylight hours.
- Minimum Illuminance: 100 lux over 95% of floor area for at least 50% of daylight hours.

BS EN 17037 gives three levels of recommendation for daylight provision in an interior space: minimum, medium and high. For compliance with the standard, a daylight space should achieve the minimum level of recommendation.

The assessment states that 100% of the habitable rooms in the apartments achieve the minimum Illuminance levels and 96.5% achieve the Target illuminance levels. 100% of the habitable rooms in the houses achieve the Minimum Illuminance levels and 93.1% achieve the Target illuminance levels.

Daylight Provision Illuminance Method					
		Fail	Minimum	Medium	High
Apartments	Target Illuminance	3.5%	25.7%	31.8%	38.9%
	Minimum Illuminance	0.0%	38.6%	32.8%	28.6%
Houses	Target Illuminance	6.9%	35.4%	39.8%	17.9%
	Minimum Illuminance	0.0%	46.4%	37.9%	15.8%

## *Sunlight*

BR209:2022 (third edition) and BS EN 17037 set out recommendations for sunlight hours to be achieved preferably in a main living space. The guidelines recommend that sunlight hours should be assessed preferably on the 21st of March over the course of the day. The guidelines set three levels. Minimum 1.5h, Medium 3h and High 4h

The BRE Guidelines recommend maximising the number of units that have a window within 90° due South but does not have set targets. The guidelines acknowledge that for large developments with site constraints it's not possible to achieve south facing windows to all main living spaces. In this development 129 No. units (77.2%) have window to a Living room or Kitchen/ Dining room which face within 90° South. 167 No. (96.4%) of living spaces achieve the minimum recommended 1.5 direct sunlight hours. Six no. apartments in Building 03 failed with B3 01.03 recording 0 sunlight hours. I note that this apartment is dual aspect and did achieve minimal habitable room Illuminance levels. The BRE guidelines acknowledges that it is not realistic for all dwellings in a new development to achieve the target sunlight hours and recommends that the design is optimised so the maximum number of dwellings can achieve this. This scheme is designed for sunlight with 96.4% of units achieving the minimum target recommended level of 1.5 direct sunlight hours on the 21st of March. Appendix B sets out Sunlight Hours for Living Spaces.

The Shadow Cast Analysis set out in section 9 of the Sunlight /Daylight Assessment. An element of self-shading is acceptable given the height of structure particularly the Apartments however the analysis identifies that house no's 35-37 will experience significant shadow throughout the day both to the front and back of the dwellings on the 21<sup>st</sup> March impacting the sunlight and daylight to these dwellings. I note, that in schemes of this nature there are challenges in achieving the recommended standards in all instances, however this is a greenfield site and overshadowing as a result of proposed apartments on housing units should be avoided and the scheme designed to ensure this is not the case.

## Sunlight to Garden and Open Spaces



Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. A Shadow Cast Analysis is set out in section 9 of the Daylight/Sunlight Assessment submitted. Analysis. Shadow cast analysis diagrams for March 21<sup>st</sup>, June 21<sup>st</sup>, September 21<sup>st</sup>, and December 21<sup>st</sup> are provided.

The BRE document indicates that for an amenity area, such as a garden, to have good quality sunlight throughout the year, 50% should receive in excess of 2 hours sunlight on the 21<sup>st</sup> of March. The report sets out that there will be a reduction in the available sunlight to some of the adjacent gardens – No. 11 Cairnbrook, Carolina and Southsprings. However, all the adjacent amenity spaces will receive at least 2 hours sunlight over 50% of the amenity space on the 21<sup>st</sup> of March and will have a minimal reduction in sunlight levels, with all retaining in excess of 80% of the existing sunlight availability. The proposed development meets the recommendations of the BRE guidelines.

Regarding the public and communal amenity areas proposed all exceed 2 hours sunlight over 50% of the amenity space on the 21<sup>st</sup> of March. The proposed development meets the recommendations of the BRE guidelines.

Regarding the private rear gardens proposed 54 (78%) of the 69 houses have a rear garden that receives in excess of 2 hours sunlight over 50% of the amenity space.

### Views Out

Section 5.2 of the BRE guidelines BR209:2022 (third edition) discusses “Views out” among other issues. BS EN 17037 recommends that views out include three distinct layers: sky, landscape and ground. View is assessed from a reference point at 1.2m above the floor level within the space. BS EN17037 rates views as minimum medium and high. The minimum level is achieved if the horizontal sight angle is at least 14° to the outside distance of view is at least 6m. The minimum level is achieved if one layer is visible, the medium if two layers and high level if

three layers are visible. The landscape layer should be visible from not less than 70% of the reference points in the living or working area.

EN17037 does not differentiate between room types in dwellings. Appendix E of the report establishes the 'Views Out' rate for each residential unit. Appendix E establishes that all the main living spaces achieve the minimum Target level of one layer set out in EN17037:2018. A small number of bedrooms do not achieve the minimum target level, these relate to the bedroom windows between the apartments blocks where separation distances are c. 6m. The applicant argues that this is justified as bedrooms would have a lesser requirement for views. Whilst this could be argued between Building 02 and 03 because the building alignments allows for a wider scope of view, I do not consider this to be the case between Building 01 and 02 as the blocks are positioned in line with each other and the view from the bedroom windows looks onto in effect an alley between the two blocks. Regarding the dwellings the report concludes that in dwellings rooms can be laid out to maximise views for the occupants. This statement is not quantified in the report, and I can only assume it means that the internal layout of the houses can be laid out to address view.

## Conclusion

The concerns raised by third parties are noted, however, having regard to the information submitted in the applicants Daylight and Sunlight Assessment I am satisfied that the assessment undertaken is comprehensive, robust and evidence based. The development impact should be seen in the wider context of the redevelopment of the subject site. It is also noted that the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions the Board should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.

Notwithstanding this is a greenfield site and as such there is scope to address overlooking, overshadowing and views out (outlook), it is my view that the alignment of the apartment blocks significantly impacts the quality layout of the scheme resulting in undue overshadowing and perceived sense of overlooking by

virtue of proximity to house no's 35-37 . In addition, the separation distance between blocks 01 and 02 provides limited outlook for the bedroom windows between the blocks. I consider the layout of the scheme inadequate in this regard and contrary to section 3.2 criteria *At the scale of the site/building* of the Building Height Guidelines and when taken into consideration with the wider layout concerns highlighted throughout this report, I am satisfied that these matter cannot be addressed by condition.

## 10.5. **Site Services, Surface Water and Flooding**

### Foul Water Drainage

There is an existing 225 mm Ø foul sewer located within the adjacent Cairnbrook Estate. This foul sewer connects to an existing 375mm diameter foul sewer on Glenamuck Road before outfalling to a large diameter (900mm) foul sewer at the junction of Glenamuck Road/M50. This large sewer is known as the Carrickmines Sewer.

A Pre-Connection Enquiry form was submitted to Irish Water on 21st October 2021 which outlines the proposals for the drainage of wastewater from the development to the west of the subject lands within Cairnbrook Estate. I note Irish Water responded with the Confirmation of Feasibility (COF) on 29th November 2021, with reference no. CDS21007602, stating that a wastewater connection to the public sewer is feasible without infrastructure upgrade by Irish Water.

The proposed foul drainage network has been designed to cater for the proposed 167 no. residential units and crèche. Each property will have a separate wastewater connection in accordance with Irish Water Code of Practice and Standard Details

### Water Supply

There is an existing 150mm uPVC watermain within the adjacent Cairnbrook Estate to the west of the subject site. It is proposed to supply the proposed development using 1 No. 150mmØ connection to the existing 150mm uPVC watermain west of the subject site. The water demand for the proposed development has been calculated according to the Irish Water Code of Practice.

A Pre-Connection Enquiry form was submitted to Irish Water on 21st October 2021 which outlined the proposals for the provision of water supply to the development. Irish Water responded with the Confirmation of Feasibility (COF) on 29th November 2021, with Reference No. CDS21007602.

Whilst Irish Water noted that water connection is feasible without infrastructure upgrades by Irish Water, it was noted that the proposed development connects via a private development, and a letter of consent from the Third-Party Landowner will need to be provided at the connection application stage. I note that the applicant has the necessary legal consents in place to facilitate connection to the watermain in Carinbrook Estate (as per land registry easement details submitted).

### Surface Water

There is an existing surface water sewer within the adjacent Cairnbrook Estate. This sewer is 225mm diameter at the boundary with the subject site and then increases to 300 mm diameter. The existing site currently drains surface water, unrestricted, to an existing ditch that crosses the subject site falling from south to northwest.

Surface water generated from the proposed development will be conveyed through a new surface water network (including SuDs) and attenuated at greenfield run off rates prior to discharge to the existing surface water sewer in Cairnbrook Estate. The proposed surface water drainage system has been designed to include permeable paving, swales, water butts, green roofs, below ground attenuation together with flow control devices to treat run-off and remove pollutants to improve quality, restrict outflow and control quantity. Strict separation of surface water and wastewater will be implemented within the development. Surface water local drains will be a minimum of 225mm dia. and generally will consist of PVC (to IS123) or concrete socket and spigot pipes (to IS 6). The drains will be laid to comply with the requirement of the Building Regulations 2010, and in accordance with the recommendations contained in the Technical Guidance Documents, Section H and in accordance with the requirements of Dun Laoghaire Rathdown County Council. The report from the Drainage Department

(02/09/2022) appended to the Report of the Chief Executive states that they are generally satisfied with the arrangements proposed.

## Flooding

Some of the Elected Members and the observers raised concerns about flooding, it was specifically referenced that Springfield lane was prone to flooding as a result of insufficient surface water infrastructure in Cairnbrook.

A drainage ditch mapped at the site was verified during ecological surveys and the site walkover carried out as part of a Hydrological and Hydrogeological Assessment of the site. This drainage ditch rises at the southwestern boundary of the site and exits the site via a culvert in the north-western portion of the Site. The offsite extent of the ditch to the southwest could not be verified due to access restrictions including third party lands and dense vegetation. OSI historical mapping indicates this ditch flows northwards, to connect with the drainage ditch along the Glenamuck Road and ultimately discharges to the Glenamuck North Stream located approximately 0.45km north of the site.

A Flood Risk Assessment accompanied the planning application. The Flood Risk Assessment has been carried out and identifies that the site and all ancillary services are located in Flood Zone C, a justification test is not required for this development.

The assessment analysed the site for risks from tidal flooding from the Irish Sea, fluvial flooding from the Shanganagh-Carrickmines River, pluvial flooding, groundwater and drainage system failures due to human error or mechanical system failure. Section 3.4 of the Assessment addresses pluvial flooding. The site is currently greenfield and the proposed development, as designed, will increase the impermeable area on site. The use of permeable paving and swales will help reduce the volume of run-off from the site during low storm events. In addition, surface water discharging from the development will be limited by Hydro-brake with a peak discharge that is equal to the greenfield runoff of the site. This will reduce the effects of the development on the local existing drainage network reducing the risk of downstream flooding. The likelihood of the proposed

development resulting in pluvial flooding downstream of the site is therefore considered low.

Section 3.4.4 notes that there is 1 recurring instance of flooding on Glenamuck Road to the northwest of the site. The report determined that these events occur due to heavy rainfall and a ditch being blocked. Although the flooding is recurring the development is at a higher level than the section of Glenamuck Road subject to flooding. Therefore, as there is no route for this water to enter the proposed development site, it is considered that there is a low likelihood of flooding from surrounding areas.

The assessment concluded that as the flood risk from all sources can be mitigated, reducing the flood risk to low or very low, the proposed development is considered acceptable in terms of flood risk. Therefore, the proposals are in line with the requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009. I note the Drainage Department of DLRCC raised no concerns in this regard. I am satisfied that the subject site is not at flood risk and subject to mitigation measures proposed will not increase the risk of local flooding.

#### Conclusion

I note that no objection to the proposals have been raised by Dun Laoghaire Rathdown County Council. The submission by Irish Water also raised no objection to the water supply and foul drainage proposals. I further note that the Hydrological and Hydrogeological Assessment identified no hazards to development on the site. I consider the proposed site services and surface water proposals satisfactory in this regard. I am also satisfied that there is no potential floor risk in the vicinity of the proposed site.

### 10.6. **Transport, Parking, Pedestrian/Cycle Facilities, DMURS**

#### 10.6.1. Traffic Impact

I note the observers and elected members state that the development is premature and cite deficiencies in the local road network. However, as detailed above, the Glenamuck Kiltiernan LAP provides for some interim development to take place in advance of the completion of the Glenamuck District Road Scheme

(GDRS) and this scheme is currently out to tender. I am satisfied that the development can proceed on the basis of the interim phasing set out in the LAP pending the construction and completion of this infrastructure.

In support of the application, the applicants have submitted a Traffic and Transport Assessment which addresses the transportation capacity considerations relating to the proposal, junction capacity construction traffic, car parking and cycle parking. A Travel Plan, Report on Public Transport Capacity, Cycle Audit, Stage 1 Road Safety Audit and DMURS Statement of Consistency are also submitted.

The observers raised a number of concerns that the capacity analysis carried out are insufficient. The TTA assumes, in a conservative scenario, that the approved GDRS road scheme will not be fully constructed and opened to public to traffic until 2025 (the assumed year of opening of the proposed development) but anytime between 2025 and 2030. Accordingly, for the future assessment years of 2030 and 2040, the surveyed traffic has been distributed to reflect the construction of the GDRS scheme. The trips generated by the proposed and permitted developments that have been assessed in the report and redistributed on the future road network where the GDRS is in place. The redistribution of traffic took into account the detailed modelling exercise undertaken as part of the GDDR / GLDR scheme assessment. The traffic redistribution for the baseline and the proposed and permitted developments are presented in Appendix D of the TTA report. I consider this approach acceptable in light of the GDRS currently identified as being at tender stage.

The total trip generation of the development is estimated to be 75 two-way movements in the AM peak and 77 movements in the PM peak. The following six junctions were assessed as part of this TTA:

- Junction 1 (Roundabout): Glenamuck Road / Golf Lane.

- Junction 2 (T-junction): Glenamuck Road / Carrickmines Green.
- Junction 3 (T-junction): Glenamuck Road / The View.
- Junction 4 (T-junction): Glenamuck Road / Cairnbrook.
- Junction 5 (T-junction): Glenamuck Road / Glenamuck Cottages.
- Junction 6 (Signalised Crossroads): Glenamuck Road / R117 Enniskerry Road.

Given the level of traffic estimated to be generated by the proposed development, only Junctions 1 and 4 were modelled. The TTA refers to the fact that a new layout for Junction 1 was approved as part of the Kiltiernan LAP road scheme, and this layout has been considered in the models for the future scenarios (2030 and 2040), as well as the overall GDRS road scheme. Junction 1 with its future layout would operate well within capacity during both peak hours in 2030 Do Nothing and Do Something scenarios and would continue to do so for the future assessment scenarios of 2040 Do Nothing and 2040 Do Something with the inclusion of the proposed and permitted developments and the GDDR scheme in place and opened to public traffic. The TTA determined that Junction 4 is currently operating well within capacity during both peak hours and would continue to do so for the future assessment year of 2040 with the inclusion of the proposed and permitted developments and the GDRS fully in place and opened to traffic. I note that junction 4 is a priority-controlled junction and while some additional queueing has been identified this is not significant. The results show that with the GDRS in place and the redistribution of traffic from the Glenamuck Road South, for the 2040 Do Something scenario, Junction 4 would operate with better capacity when compared to 2025 Do Something scenario where the GDRS is assumed to be not in place.

The relatively low traffic generation ensures that the junctions do not experience onerous volumes of traffic. The modelling carried out indicated that both junctions will operate within capacity during both peak hours and would continue to do so for the future assessment year of 2040 with the inclusion of the proposed development and permitted developments in the area of influence of the proposed development.



### 10.6.2. Construction Traffic

A number of concerns have been raised about construction traffic. A Preliminary Construction Management Plan (CMP) has been prepared. With regards to access and egress of the construction vehicles, the report states that construction access to the site will be primarily via the existing Springfield Lane subject to the laneway being available, however, should Springfield Lane not be available then the access to the site will be via Cairnbrook Estate.

There appears to be uncertainty as to the status of Springfield Lane. I note the concerns raised by the observers about the capacity constraints of Springfield Lane and concerns relating to *Right of Way* along Springfield Lane. However, and of note Springfield Lane has not been identified or highlighted as a private road by DLRCC. Site inspection indicated that this lane is trafficked by those accessing the equestrian centre, similarly pedestrian access to Carrickmines Manor is also provided from the lane. Whilst I note the lane is narrow and two vehicles cannot pass, in terms of limiting the potential impact on the existing Cairnbrook residents' construction access via Springfield Lane is the preferred option subject to appropriate traffic management being implemented. Some observers suggest Springfield Lane should be upgraded to cater for the development. Whilst this maybe an option, this is outside of the remit of this planning application.

Some concerns have also been raised about the inconsistency in the planning application documentation, in particular, regarding access proposed from Springfield Lane, this is identified as pedestrian and cycling only however section 6.3 *Site Access Points* of the TTA refers to this as a vehicular access route. Vehicular access in this instance relates to construction traffic only, in the event that the Board are minded to grant planning permission this should be reflected in a specific planning condition.

### 10.6.3. Car Parking

Section 12.4.5.3 of the development plan sets out car parking standards for all residential development. Table 12.5 sets out the Car Parking Zones and Standards for car parking. The subject site falls under Development Plan Parking Zone 3. The car parking standards for Parking Zone 3, as set out in Table 12.5 of

the Development Plan, are as follows:

- 1 car parking space per 1 bed and 2 bed apartments or houses
- 2 car parking spaces per 3+ bed units
- Plus 1 car parking space for visitors per 10 apartments units.
- 1 car parking space per 40 sq.m GFA for Childcare Facilities

The scheme requires a total of c. 272 no. car parking spaces under the Development Plan requirements, c. 129 for the apartments, 138 no. for the houses and 5 no. for the childcare facility. It is proposed to provide a total of 237 no. parking spaces to serve the subject development, 138 no. spaces for the houses (which equates to a ratio of 2 spaces per house) and 99 no. spaces for the apartments and creche (35 no. spaces at surface level and 64 no. spaces at the basement), which equates to a ratio of 1 space per apartment unit. The overall apartment and creche provision include 20 no. EV Spaces, 1 no Go Car and 5 no. Accessible Spaces. It is proposed to allocate 4 no. drop off spaces for the childcare facility, which can be utilised by visitors out of hours. No other visitor parking is proposed. The level of car parking proposed equates to a shortfall of c. 35 no. spaces for the apartment units under the development plan requirements. The applicant sets out that this is a material contravention of the development plan.

Policy Objective T1 seeks to “actively support sustainable modes of transport and ensure that land use and zoning are aligned with the provision and development of high-quality public transport systems. This is consistent with NSO 1, NPO 26 of the NPF, 64, RPO 4.40, 5.3, 8.1 and Guiding Principles on Integration of Land Use and Transport of the RSES. The subject site is located c. 500 from the 63 and 63a Kiltiernan Village – Dun Laoghaire bus route and c. 1.7 km from the Luas Green Line Ballyogan Stop, supported by the upgrades to the Glenamuck Road and the new BusConnects Route L26 Kiltiernan – Blackrock. The TTA supported by the Travel and Public Transport Capacity Report argue the reduced car parking provision, along with the ample cycle parking, will encourage active transit to and from the proposed development and reduce car usage given the location of the

development. It is also argued that the proposal provides a reduced overall car parking standard when compared to development plan standards, which in the context of the 2020 Apartment Guidelines is considered to be justified by the proximity of the proposed residential development to existing Luas and bus services.

I note the CE report did not raise any specific concern regarding the quantum of residential parking proposed. It is acknowledged however, that the Sustainable Urban Housing: Design Standards for New Apartments advocates reduced levels of parking in certain instances. The Sustainable Urban Housing: Design Standards for New Apartments specifically note that for peripheral and/or less accessible locations that as a benchmark, one car parking space per unit, together with an element of visitor parking such as one space for every 3-4 apartments should generally be required. Having regard to this guidance and the fact that in the future, the public transport offering serving the site will improve and mobility management measures implemented, I am satisfied that the quantum of parking proposed is sufficient to serve the proposed development.

Concerns were raised by the Road Department regarding the layout of the basement/Undercroft car parking with no circulation and large cul-de-sacs. I accept that such a layout can lead to difficult vehicle manoeuvring but owing to the narrow plan layout would in my opinion appear to most practical solution.

#### 10.6.4. Cycle Parking

Dun Laoghaire-Rathdown County Development Plan requires a minimum of 173 cycle parking spaces for this development. It is proposed to provide a total of 219 secure cycle parking spaces with 184 standard, 16 visitor spaces, 3 cargo spaces and 16 creche parking spaces. There will be 34 surface cycle parking spaces provided also. Cycle parking for houses will be within curtilage. I consider the level of provision is adequate in this instance.

#### 10.6.5. DMURS

A DMURS Statement accompanied the planning application. It is detailed in the application that the following measures will be implemented to ensure the scheme adheres to the design concepts of DMURS:

- Connectivity – Pedestrian connectivity is provided throughout the development with good links to the existing established residential development. In addition to the primary pedestrian/cycle/vehicular links to the Cairnbrook estate, pedestrian and cycle connectivity is provided to the Local Authority housing development to the southwest of the proposed development which will particularly benefit the Local Authority development. Pedestrian and cycle connectivity is also provided to Springfield Lane to the north of the development site.
- Enclosure - The proposed development has been designed so that the residential units are overlooking streets and public open spaces which provide passive surveillance. Landscaping and tree planting are provided along the roads/streets which assist in providing a sense of enclosure. There are multiple cul-de-sacs with shared surfaces which provide enclosed residential communities and give a sense of place to these individual communities.
- Active Edge –Residential housing units are all located so that they front directly onto the roads and streets. Entrances to the units are clearly legible and are provided directly from the street which will ensure that there is plenty of activity as residents come and go.
- Pedestrian Activities/ Facilities – The scheme has been designed to reduce traffic speed, most of the roads end in cul-de-sacs to encourage lower traffic, raised tables have been introduced at junctions along the main access road and shared surfaces have been incorporated along sections of roadway. The pedestrian routes across the site are generally 2.0m wide which provide adequate space for two people to pass comfortably. DMURS identifies a 1.8m wide footpath as being suitable for areas of low pedestrian activity and a 2.5m footpath as being suitable for low to moderate pedestrian activity. It is considered that a 2m wide footpath is appropriate for the proposed development.

The stated objective of DMURS is to achieve better street design in urban areas. This will encourage more people to choose to walk, cycle or use public transport by making the experience safer and more pleasant. Whilst permeability has been provided through the design, the Road Department of DLRCC raised a number of concerns regarding general qualitative compliance with DMURS within the scheme

including poorly designed junctions, not clear what priority line is, some junctions have not aligned crossing points or no crossing points and the arm between units 53 and 63 should be designed as a higher road hierarchy with dedicated footpaths on both sides. I share the concerns raised by the Roads Department and I consider the quality of internal site connectivity poor, particularly in the context of the homezones and the associated organisation of car parking proposed and potential conflicts with vehicular turning movements and pedestrian/cyclists movements and whilst the connectivity to Springfield lane is welcome this lane is a narrow poorly surfaced carriageway with no footpath or cycle connections beyond the site. Connectivity between and within adjoining residential areas is a key principle in the creation of sustainable neighbourhoods.

Refusal reasons no. 2 as set out in the CE report states that the development is premature because of the lack of adequate, safe pedestrian facilities on Glenamuck Road. Site inspection indicate a footpath along the southeastern side of Glenamuck Road from Kiltarnan Village extending to both sides of the road towards Carrickmines Park with access to Bus stops and the LUAS. Whilst I note the road narrows towards Kiltarnan Village nonetheless a public footpath connection does exist.

Of significant relevance, the Road Safety Audit submitted by the applicant also highlights many of these issues. In addition, the RSA observed that the existing Cairnbrook road has areas of designated on-street parking. Drivers currently use an informal give take system when meeting at these areas. When the additional units are constructed and occupied there is a risk that vehicles will meet at the parking areas and the remaining carriageway will not be wide enough to accommodate both, resulting in side-swipe collisions. It is recommended that that an analysis of the on-street parking be made with respect to the additional traffic volumes and the potential need for some intermittent passing bay. I agree that this is a cause for concern as this is the only vehicular access to the site and the resulting increase in traffic generated by the development has the potential to generate a traffic hazard in Cairnbrook and in terms of road hierarchy this is the primary route and two lane traffic is the preferred solution. Therefore, I am not satisfied that the site access can be adequately accommodated via Cairnbrook. I

consider the development would generate a potential traffic hazard and result in a detrimental impact on the established Cairnbrook Estate.

Concerns were also raised that the development will prevent access and permeability to adjoining to adjoining to the south and east and create a ransom strip. I have discussed this matter previously in this report and I consider the alignment of the proposed development as it intersects the permitted Part 8 planning create a pinch point where the two developments meet and does not allow for a quality connection.

#### 10.6.6. Conclusion

DMURS is intended to lower traffic speeds, reduce unnecessary car use, and create a built environment that promotes healthy lifestyles and responds more sympathetically to the distinctive nature of individual communities and places. The implementation of DMURS is intended to enhance how we go about our business; enhance how we interact with each other and have a positive impact on our enjoyment of the places to and through which we travel. The creation of a neighbourhood that is well connected and permeable for pedestrians and cyclists is of paramount importance.

It is considered that the proposed development is unsatisfactory. The desire to increase connectivity falls short in terms of the qualitative provision within the scheme and the lack of appropriate pedestrian or cycle connectivity to the wider area over Springfield Lane to the north and lands to the south. Whilst not actively engaging with the adjoining Cairnbrook residential lands results in development that conflicts with the established road hierarchy resulting in potential hazardous access arrangements and would fail to create a sense of place. As such the proposed development is contrary to Policy Objective PHP35: Healthy Placemaking of the CDP which states that it is a Policy Objective to: *Ensure that all development is of high quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES. Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013). Ensure that development proposals are cognisant of the need for proper consideration of*

*context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.*

## 10.7. **Impact on Biodiversity and Ecology**

Concerns have been raised about the impact of the proposed development on the biodiversity of the site, Similarity the DLR Biodiversity Officers report set out that the EclA is incomplete.

The applicant has submitted an Ecological Impact Assessment. A number of field surveys as well as a habitat, flora and fauna, invasive species surveys were undertaken to support the assessment and an invasive species management plan submitted. The subject site comprises a greenfield site. In terms of habitat, a total of thirteen habitats were mapped across the site, ten habitats were mapped as polygons, of which GA1 (Improved agricultural grassland), WS1 (Scrub), WN6 (wet woodland) and GS4 (wet grassland) formed over 90% of the surveyed area. Most linear habitats comprised WL1 (hedgerows), there being only two short WL2 (Treelines) within the survey area. The water course traversing the wet woodland area was noted as an intermediary between a drain and a lowland river, with the watercourse apparently being rather heavily modified.

Species records from the National Biodiversity Data Centre (NBDC) online database for this grid square was studied for the presence of rare or protected flora and fauna. In addition, data from various sources (e.g. Inland Fisheries Ireland, Flora Protection Order Map Viewer) were used to determine the presence of species in the vicinity of the proposed development. In addition to the walkover surveys were undertaken to ascertain if any rare or protected flora and fauna are present on the site and to determine if there are any problematic invasive species.

The report sets out that the site is potentially of local importance for Hedgehog in the area, for nesting, foraging and commuting purposes. There are other areas particularly south of the site which would also be used by Hedgehog. There was no evidence of Badger at the site. Evidence of Foxes was indicated through fox scent throughout the site. Deer tracks were noted at the southern boundary of the site.

The report sets out that habitat loss at the site would not be significant for hedgehog, and other small mammals. However, it was noted that there is potential for the proposed development to result in indirect effects on Otter as a result of water pollution. The pollution of water and consequent impact on fish species has the potential to affect Otter by reducing prey availability within the Carrickmines Stream and Shanganagh River. This constitutes a negative, short-term, moderate impact in the absence of suitable mitigation.

A bird Survey was carried out and determined that the site itself is not deemed to be located in a sensitive area in terms of bird flight paths i.e., it is not located near any Special Protected Areas (SPAs) designated for wetland bird populations, and wintering bird surveys carried out at the site between November 2021 and March 2022 concluded that the site is not used as roosting or foraging habitat for any such species. The wintering bird surveys carried out at the Site concluded that the only species recorded flying overhead were Herring Gulls. A range of common bird species were observed at the Site during surveys conducted over the summer in 2022.

The site is a complex site containing various habitats and located 160m north of Dingle Glen pNHA. There is no hydrological pathway between this pNHA and the proposed development site, there is a pathway via the air (both air emissions and noise impacts). I note the Biodiversity Officer states the no operation impacts are assessed for Dingle Glen pNHA. Owing to the separation distance and the agriculture land buffer between the site and the pNHA and the proximity of adjoining established development to the pNHA, I consider the assessment has addressed any concerns in this regard.

A Wet Willow-Alder-Ash woodland was located towards the west of the site and comprised roughly 9% of the site area. A detailed assessment of this habitat was undertaken by McNutt (2022) to determine whether the woodland should be classified as the priority Annex I habitat. The EclA states that the block of wet woodland was assessed for its classification of the Annex I habitat 91E0 alluvial forests and noted that although sufficient positive indicator species were present as a whole, the recent development of the woodland, its tiny size, its overall rather dry



character, the dominance of brambles (and gorse), the rather dubious status of the drain as being a stream and a source of alluvial deposits and flooding, the marked lack of connectivity to other examples of alluvial woodland, the absence of very typical lush alluvial woodland ground vegetation, concludes that it should not be considered as 91E0. The analysis states that *“although certain aspects lie in the realm of interpretation. An ecologist who was taking an inclusive approach and applying the precautionary principle, may decide to designate this small woodland parcel as the Annex I habitat 91E0 alluvial woodland”*.

In addition, improved agricultural grassland habitat comprised over 50% of the total area surveyed. Species composition varied across this habitat, with some areas found to be richer than others. Of note, species recorded at relevé 2 and within polygon 25 (Pg 41 EclA) had some species typical of semi-natural dry grassland, including several positive indicators for the Annex I habitat.

Regarding the Ecological Impact Assessment report, I consider the report substantial however I note the shortcomings as identified by the Biodiversity Officer. I consider the report inconclusive in its contents and therefore the impacts cannot be adequately assessed. I note the mitigation proposed relies primarily on compensatory measures and standard best practice rather than retention. Whilst, I note areas have been designated for biodiversity enhancement within the landscape plan proposed and the landscape plan provides for a combination of retention and creation on new habitats. I have particular concern regarding residual impacts on important habitats with affinity to Annex 1 habitats and wetland and grassland habitats with affinity to Annex 1 habitat and having regard to the text within the EclA, I considered this requires further assessment to determine if they meet the criteria for Annex 1 habitat designation.

On the basis of the evidence submitted, the Board cannot be satisfied that the proposed development will not result in adverse impacts on important habitats with affinity to Annex 1 habitats and wetland and grassland habitats with affinity to Annex 1 habitat and as such is contrary to Policy Objective GIB18: Protection of Natural Heritage and the Environment of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and the proper planning and sustainable development of the area.

### *Arboriculture Impact Assessment*

A number of observers raised specific concerns regarding tree and hedgerow removal as set out in section 10.3.4 above. The Arboriculture Impact Assessment submitted states that the loss of the above tree vegetation from this site will be mitigated against with new tree, shrub and hedge planting that will complement the development and will help to provide good quality and sustainable long-term tree cover.

I note the objective “to protect and preserve trees and woodlands” within the site boundary in the LAP 2013-2019 (as extended) and as identified in land use zoning map 9 of the CDP 2022-2028. I further note that the EclA states that all three hedgerows/treelines received an overall score of “High Significance”, meaning that they should all be considered as “Heritage Hedgerows”. While this has no protection status, it is an acknowledgement of the value of the hedgerows.

Section 12.8.11 of the Development Plan states: “*New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows....*” The applicant has addressed Objectives to Protect and Preserve Trees and Woodlands in the Material Contravention Statement submitted.

The landscape plan provides for the retention of the existing hedgerow along the eastern/south-eastern boundary and the retention/enhancement of the hedgerow along the south-western boundary. Twenty-five metres of the eastern boundary hedgerow is proposed to be removed to facilitate the construction of the proposed development; it is proposed that this hedgerow section will be replanted. It is proposed to retain a 2-4m wide strip (width varies depending on site constraints) of the existing species-rich grassland verge adjacent to the existing hedgerow along the eastern boundary of the site.

The majority of the trees from a mature lawson cypress treeline to the north-west of the site will be removed. A treeline comprising lawson cypress, Sycamore, Acer pseudoplatanus and Norway Spruce near the western boundary of the site will be retained. The latter treeline is located parallel to an existing drain within the site. A

mix of native and non-native tree planting throughout the site is proposed, comprising the following species: Alder Alnus, Wild Cherry, Silver Birch, Hazel and Hawthorn Goat.

#### Conclusion

I am satisfied that the applicant has sought to retain, where practicable, trees and hedgerows on the site and integrate these into the overall landscape plan for the site.

However, in the context of concerns raised regarding residual impacts on important habitats with affinity to Annex 1 habitats, I note Policy Objective GIB18: Protection of Natural Heritage and the Environment where it is a stated Policy Objective “*to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated areas of high nature conservation value known as locally important areas which also serve as ‘Stepping Stones’ for the purposes of Article 10 of the Habitats Directive*”. The CDP sets out that the implementation of this Policy Objective will involve inter alia identification and protection of non-designated sites of local and high nature conservation value, and the management of features of the landscape which are of major importance for wild fauna and flora in accordance with Article 10 of the Habitats Directive.

I am not satisfied that the proposed development has adequately addressed the residual impacts on important habitats with affinity to Annex 1 habitats and wetland and grassland habitats with affinity to Annex 1 habitat and as such is contrary to Policy Objective GIB18: Protection of Natural Heritage and the Environment as set out above.

#### 10.7.1. Bat Survey

A Bat Assessment was carried out on the site. Agricultural buildings are located along the north-eastern boundary of the proposed development site. These were inspected on 15th May 2022. Six species of bat was recorded within the survey area: Leisler’s Bat *Nyctalus leisleri*, Soprano Pipistrelle *Pipistrellus pygmaeus*,

Common Pipistrelle *Pipistrellus pipistrellus*, Nathusius' pipistrelle *Pipistrellus nathusii*, Natterer's Bat *Myotis nattereri*, Brown Long-eared Bat *Plecotus auritus* and *Myotis* species (this species is likely to be Natterer's Bat). The first three species were recorded during bat detector surveys and static surveillance bat activity levels were indicative of commuting and foraging individuals. The latter three bat species were recorded in a low level of bat passes.

Overall, the survey results demonstrate that bats commuted to the proposed development site from a northerly direction and foraged, primarily along the boundary habitats. The eastern boundary is particularly important for foraging local bat populations and this may be due to the double hedgerow as a result of the adjacent laneway. It is also a darker area (i.e. less street lights) compared to other boundaries

There are no recorded bat roosts within the proposed development site, but three trees recorded as Potential Bat Roosts (PBRs) are proposed to be felled. A small section of the eastern boundary (approximately 25m in length) is proposed to be removed to facilitate the proposed development, but this will be replanted post-works.

The removal of the trees on site will result in a loss of foraging areas and a loss in potential bat roosts and artificial light has the potential to disturb bat species. Low impact lighting has been chosen in the vicinity of the retained treeline. In order to minimise the impact on bats, the proposed lighting scheme for the development scheme is to be designed to be bat friendly. A Habitat management/Maintenance Plan for the site. The mitigation measures outlined in Section 7 also indicate that bat boxes would be provided within the scheme. With the implementation of appropriate mitigation measures no significant impacts on are likely.

#### 10.8. **Chief Executives Report**

The planning authority's report recommended that permission be refused for 4 no reasons.

Premature by reference to the existing deficiencies in the road network

The planning authority consider that the proposed development would be premature pending the completion of the Glenamuck District Road Scheme – GDRS. The area has reached capacity in terms of unit numbers and no further development can take place until these infrastructure developments have been constructed. As such the proposals are contrary to Section 10.6 of the Kiltiernan Local Area Plan would thus be contrary to the proper planning and sustainable development of the area.

It is my view as set out in section 10.2 of this report that the principle of the proposed development is in accordance with the zoning objective for the site and I am satisfied that the quantum of development proposed can be accommodated on the site having regard to the interim phasing arrangements set out in the LAP and the fact that the GDRS has progressed to tender stage. Having regard to the 7-year planning permission sought and the two-year timeline for the completion of the roads infrastructure (as identified by DLRCC on their website 7-5-2023), albeit somewhat delayed, it is reasonable assume that the road infrastructure will be place over the lifetime of the planning permission sought. It is my view that the site can be developed in tandem with the provision of the GDRS.

Endanger public safety as a result of the poor internal site layout and access junctions.

The planning authority consider that the intensification of additional traffic/pedestrians accessing the proposed development, and the lack of safe pedestrian and cycling facilities leading to relevant transportation nodes (bus stops, footpaths and cycle network). In addition, the proposed development is considered premature because of the lack of adequate, safe pedestrian facilities on Glenamuck Road. It is considered that the proposed development would be contrary to SLO 80 of the current County Development Plan. The development would thus be contrary to the proper planning and sustainable development of the area.

Objective SLO 80 is an objective in the CDP to accord with the policies of the adopted Kiltiernan/ Glenamuck Local Area Plan. Regarding the above I note the CE report provides very little rationale for this reason relying of the report from the Roads Department. Notwithstanding, I would agree that the internal layout fails to address the Quality Audit recommendations to the detriment of the scheme, and I

would share concerns regarding appropriate pedestrian and cycle connections outward of the site, in particular, along Springfield Lane. I would refer the Board to my analysis in Section 10.6.6 of this report. I consider this issue distinct from reason 1 above.

#### Red line boundary

The planning authority notes an overlap with lands permitted for a DLRCC Part 8 Housing Scheme located to the southwest of the subject site. The proposed development has not supplied and documentation to demonstrate consent for the proposed works.

I have reviewed the relevant Part 8 documentation and I agree with the planning authority that there appears to be overlap. In addition, I have concerns that the proposed layout does not adequately address the integration of both schemes. I refer the Board to section 10.2.5 of this report. It is my view that this concern could not be addressed by way of condition.

#### Insufficient and incomplete submitted Ecological Impact Assessment

The planning authority considers the impact of the proposed development on the Dingle Glen pNHA, including the impacts of the proposed development in the flora and fauna of the site and surrounding area, have not been fully considered and therefore the proposed development has not demonstrated that it complies with Policy Objective GIB21: Designated Sites and Section 12.7.2 of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

I would refer the Bord to section 10.7 of this report.

### 10.9. **Material Contravention**

The applicant's Material Contravention Statement states that the proposed development could be considered to materially contravene the Dun Laoghaire Rathdown County Development Plan 2022-2028 and Kiltiernan Glenamuck Local Area Plan 2013-2018 (as extended to Sept. 2023) (hereinafter 'LAP') in relation to (i) Section 12.3.3.1 of the Development Plan as it relates to unit mix, (ii) Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height, (iii) Section

10 of the LAP as it relates to phasing, (iv) Section 12.3.5.2 of the Development Plan as it relates to separation between blocks, (v) Section 12.4.5.3 and Table 12.5 of the Development Plan as it relates to Car Parking, (vi) Section 12.8 of the Development Plan as it relates to Public Open Space, (vii) Section 12.3.5.3 of the Development Plan as it relates to External Storage, and (viii) map based objectives 'to protect and preserve Trees and Woodlands'.

10.9.1. Section 12.3.3.1 of the Development Plan as it relates to unit mix,

Section 12.3.3.1 of the Development Plan sets out quantitative standards for residential size and mix.

It is set out that the proposed mix would not be consistent with the development plan requirements as while the overall unit mix comprises 54% 3+ bedroom units, the provision of 21% 3+ bedroom apartments, does not meet the criteria for a minimum of 40% 3+ bedroom units for the apartment element as set out in Table 12.1 of the Development Plan. Similarly, while the overall unit mix comprises 18% 1-bedroom units, the provision of 31% 1-bedroom apartments does not meet the criteria for a maximum of 30% as set out in Table 12.1 of the Development Plan.

Section 12.3.3.1 of the CDP states that in schemes of 50+ units, where a mixture of housing and apartments or a scheme comprising solely of houses is being provided on a site the housing offering must ensure a mixture that includes a proportion of housing units that are 3 beds or less. In deciding on the mix of house and apartments in these areas regard shall be had to the details of existing and permitted unit types within a 10-minute walk of the proposed development The apartment element, if in excess of 50 units, shall comply with the table 12.1.

As the unit mix outlined in Table 12.1 relates to a standard and not a policy of the plan, I am satisfied that it is not a material contravention of the development plan, and it is noted that the planning authority have not raise any concerns regarding a material contravention of unit mix. However, I note table housing mix in the County is supported by Policy Objective PHP 27 of the CDP which in turn is supported by the provisions of the Housing Strategy and Housing Need Demand Assessment

(HNDA). It is my opinion the applicant has not given due consideration to the HNDA. Section 10.2.4 of this report addresses this matter in more detail.

- 10.9.2. Objective PHP42 and Appendix 5- Building Height Strategy of the Development Plan, and Section 2.2.1 and Chapter 11 of the LAP as it relates to building height.

I refer the Board to section 10.3.3 of this assessment. I consider that the proposed building is supported by Policy Objective BHS 2 of the CDP including assessment against performance-based criteria set out in table 5.1. Therefore, I am satisfied that the development is not a material contravention of the CDP as it relates to building height.

- 10.9.3. Section 10 of the LAP as it relates to phasing.

I refer to Board to section 10.2.2 of this report. I consider that the proposed phasing building height does materially contravene Section 10 of the LAP. This matter is addressed in the applicant's Material Contravention Statement, and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

- 10.9.4. Section 12.3.5.2 of the Development Plan as it relates to separation between blocks.

I note section 12.3.5.2 states "*in certain instances*, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development". Therefore, I am satisfied that it is not a material contravention of the development plan.

- 10.9.5. Section 12.4.5.3 and Table 12.5 of the Development Plan as it relates to Car Parking

The proposed car parking provision is not in accordance with the standards indicated in development plan table 12.5. I refer the Board to section 10.6.3 of this assessment, the proximity of the site to existing and proposed public transport and Policy Objective T1. I am satisfied that it is not a material contravention of the development plan, and it is noted that the planning authority have not include this in any reason for refusal.



10.9.6. Section 12.8 of the Development Plan as it relates to Public Open Space,

In relation to the quantum of public open space to be provided, based on a net site area of 3.056 ha, the public open space requirement for the proposed scheme is 4,584 sq.m. (15% of 3.056 ha), a total of 4,600 sq.m of public open space is provided within the development. The quantum of public open space provided meets the minimum standard set out in the Table 12.8 of the Development Plan. However, these calculations include the ecological corridor/ a hedgerow zone along the eastern boundary. Section 12.8 of the development plan provides for the payment of a contribution in lieu of any shortfall in the quantum of public open space applied under Section 48 of the Planning and Development Act 2000, as amended. Therefore, I am satisfied that it is not a material contravention of the development plan. This matter is addressed in the applicant's Material Contravention Statement, and it is therefore open to the Board to invoke the provisions of section 37(2)(b) in relation to this matter.

10.9.7. Section 12.3.5.3 of the Development Plan as it relates to External Storage

Section 12.3.5.3 of the Development Plan, states the following: "*Apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements...*"

184 sq.m of storage is provided at ground floor level of the apartments for the storage of bicycles and bins. The development plan does not include quantitative standards for the external storage areas. Therefore, I am satisfied that the development is not a material contravention of Section 12.3.5.3 of the CDP.

10.9.8. Map based objectives 'to protect and preserve Trees and Woodlands'

The Development Plan map-based objectives for the site include two specific objectives "to protect and preserve Trees and Woodlands".

Section 12.8.11 of the Development Plan states: "New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows...." The applicant has carried out an Arboriculture Assessment of the trees and hedgerow on site and where practical sought to retain trees and

hedgerows as part of the wider site landscaping. Notwithstanding I do not consider the development proposed to be a material contravention of development plan as it relates to the protection of trees and hedgerows as this is not a blanket protection and the objectives are subjective in their interpretation.

## 10.10. Other Issues

### 10.10.1. Emergency Access

An observation was raised with respect to emergency access. In this regard I note that the site is accessible with regards emergency vehicles. The development will be subject to a separate Fire Safety Certificate application.

### 10.10.2. Childcare Facility

A number of concerns have been raised about the Childcare facility primarily relating to the traffic generated. The Childcare Facilities *Guidelines for Planning Authorities (2001)* states that unless there is a significant reason to the contrary a standard of one childcare facility providing for a minimum 20 childcare places per approximately 75 dwellings is recommend. It is intended that the facility will service the residents of the scheme and will therefore not generate significant additional traffic.

I note the CE report states that the proposed childcare facility is adequately sized to cater for the potential demand generated by the development and in accordance with Policy Objective PHP6 of the CDP whereby childcare facilities are considered to be integral to new residential development.

### 10.10.3. Archaeology

There are no recorded archaeological monuments within the proposed development site. The northeast corner of the study area borders the zone of archaeological potential for a 'cross-base' (DU026-018)" which is located approximately 100m north-east of the subject site. The Archaeological Assessment Report accompanying the application confirms that the proposed development will not impact on this monument.

In terms of impact of the proposed scheme the report, the includes the following:

*“....The majority of the waterlogged area will be a public open space, which will minimise the amount of ground disturbance required. The edges of it will be developed, however, and a terrace of houses is proposed at the site of the geophysical anomaly....”.*

The report recommends that topsoil stripping be undertaken at the site of the geophysical anomaly to confirm if it is archaeological and to determine its extent and if it be confirmed as archaeological, this will be followed by a full excavation to be carried out well in advance of the construction works. Archaeological monitoring of earth moving works is also recommended across the site in order to identify any potential features not detected by the geophysical survey. This will be undertaken with the supervision of a suitably qualified archaeologist under licence from the National Monuments Service of the Department of Housing, Local Government and Heritage (DHLGH). I am satisfied these matters can be addressed by condition, should the Bord be minded to grant planning permission.

#### 10.10.4. Construction Impacts

Concerns are raised by third parties that the submitted information does not adequately describe the impact during construction. While it is acknowledged that the proposed construction phase would cause noise and disturbance the works would be temporary. The use of best practice noise control measures, hours of operation, scheduling of works within appropriate time periods, strict construction noise limits and noise monitoring during this phase will ensure impacts are controlled to within the adopted criteria.

Observations were raised regarding proposed site hoarding being agreed with the local residents. Hoarding and security fencing will be required on the public roads during the construction works. Prior to construction commencing on site, a detailed construction traffic management plan including such security measures will be prepared and submitted by the appointed contractor to DLRCC for approval.

#### 10.10.5. Overhead lines

A number of observations were raised about the proximity of the development to the overhead lines to the north of the site. The Energy, Utilities and

Telecommunications Statement accompanying the planning application states that ESB networks have indicated that an 18m wayleave is required from the centreline of the overhead 110 kV transmission lines. For technical and safety reasons the ESB seek a clear area away from the edge of the high voltage lines. The scheme has been designed to account for these lines. At the northern end of the site the layout of the scheme has a single detached house. The design and set out of this unit is influenced by existing overhead ESB lines.

## **11.0 Environmental Impact Assessment**

The applicant submitted an Environmental Impact Assessment Screening Report and a Statement in Accordance with Article 299(1)(b)(ii)(II)(c). However, having regard to the concerns raised regarding habitat designation on the site as set out in section 10.7 above, I cannot be satisfied that the proposed development would not result in significant effects on the environment due to the nature of the proposed development, its scale or extent and its location in relation to the characteristics of the receiving area, particularly sensitive environments.

## **12.0 Appropriate Assessment**

The applicant has prepared an AA Screening Report as part of the application. This assessment has regard to the submitted AA Screening Report, the site visit, the submissions of the planning authority and prescribed bodies and the documentation on file. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

## **12.1 The Project and Its Characteristics**

A description of the project is provided in Section 3.0 of the Screening Report. The proposed development is also summarised in Section 3 of my report. In summary, the proposed development comprises the demolition of existing outbuildings on site and provide for the construction of 167 no. residential units, a childcare facility

on a 3.056ha. gross (3.028 ha net) site on lands c.300m to the south-east of Glenamuck Road South, immediately east of Cairnbrook residential development, Carrickmines, Dublin. The surrounding area is suburban in nature with a mix of residential and some commercial uses in the immediate vicinity of the site. The site is serviced by public water supply and foul drainage networks. This foul sewer connects public sewerage network. Surface water generated from the proposed development will be conveyed through a new surface water network (including SuDs) and attenuated at greenfield run off rates prior to discharge to the existing surface water sewer in Cairnbrook Estate. The development site is located on greenfield site bound by agricultural lands the was rans southeast with the remaining boundaries in proximity to residential development.

#### 12.1. The Development Site and Receiving Environment

See site description in section 2.0 above. No Annex I habitats for which European Sites have been designated were recorded within the development site or in the immediate vicinity. Dingle Glen pNHA is located 160m south of the site. Natural Heritage Areas (NHAs) are designations under the Wildlife Acts to protect habitats, species, or geology of national importance. NHA designations are not yet fully in force under this legislation and are offered protection in the meantime under planning policy which normally requires that planning authorities give recognition to their ecological value.

#### 12.2. Stage I Appropriate Assessment

In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)).

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). There are no designated sites within or immediately adjacent to the development. The applicant's Stage I

screening assessment identifies the following designated sites within 15 km of the development.

European Site (code)	Distance to Development	Qualifying Interests/ Conservation Objectives
<b>SAC</b>		
Knocksink Wood SAC (000725)	3.8km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>
Ballyman Glen SAC (000713)	4.1km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>

<p>Wicklow Mountains SAC (002122)</p>	<p>5.5km</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p>
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		<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p>
<p>South Dublin Bay SAC (000210)</p>	<p>5.79km</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>Rockabill to Dalkey Island SAC (003000)</p>	<p>5.8km</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>
<p>Bray Head SAC (000714)</p>	<p>8.0km</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p>



		Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
North Dublin Bay SAC (000206)	11.2km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Glenasmole Valley SAC (001209)	11.4km	The conservation objectives for the SAC relate to the maintenance of a favourable

		<p>conservation condition of condition of the following Annex I habitats:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p>
Glen of the Downs SAC (000719)	11.8km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>
Howth Head SAC (000202)	11.3km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
<b>SPA</b>		
Wicklow Mountains SPA (004040)	5.5km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation</p>

		<p>Interests for the SPA: Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>5.7km</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>

<p>North Island (004006)</p> <p>Bull SPA</p>	<p>11.2km</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p>
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		Wetland and Waterbirds [A999]
Dalkey Islands SPA (004172)	6.5km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]  Common Tern (<i>Sterna hirundo</i>) [A193]  Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>

I do not consider that any other European Sites fall within the zone of influence of the project, having regard to the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

I consider that there is no possibility of significant effects on the following designated sites within 15 km, with regard to their conservation objectives, due to intervening distances, to the nature of the intervening land uses, including elevation and to the absence of a hydrological or any other linkage between the development and the European Site.

I have therefore excluded them from the remainder of this AA screening:

- Knocksink Wood SAC (000725)
- Ballyman Glen SAC (000713)
- Wicklow Mountains SAC (002122)
- South Dublin Bay SAC (000210)
- Bray Head SAC (000714)
- North Dublin Bay SAC (000206)
- Glenasmole Valley SAC (001209)
- Glen of the Downs SAC (000719)
- Howth Head SAC (000202)

- South Dublin Bay and River Tolka Estuary SPA (004024)
- Wicklow Mountains SPA (004040)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- North Bull Island SPA (004006)
- Dalkey Islands SPA (004172)

Having regard to the significant separation distances from Natura 2000 sites, I consider that that any potential for significant effects is limited to the question of surface water and wastewater emissions and their potential downstream impacts on the receiving environment in Rockabill to Dalkey Island SAC (003000). My screening assessment will therefore focus on the impact of the proposal on the conservation objectives of the Rockabill to Dalkey Island SAC and its qualifying interests. I am satisfied that no other European Sites fall within the possible zone of influence. I have therefore excluded them from the remainder of this AA screening.

#### **Potential Effects on Designated Sites**

Having regard to the potential zone of influence and the submitted AA document, the following Natura 2000 sites are identified as lying within the potential zone of influence of the development due to potential indirect hydrological connections between the development and the European Site Rockabill to Dalkey Island SAC (003000) via the surface water sewer network and the foul sewer network:

#### *Screening Assessment*

The Conservation Objectives and Qualifying Interests of Rockabill to Dalkey Island SAC are outlined in the table above.

#### *Consideration of Impacts*

It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

OSI historical mapping indicates this ditch flows northwards, to connect with the drainage ditch along the Glenamuck Road and ultimately discharges to the Glenamuck North Stream located approximately 0.45km north-west of the site.

The Glenamuck North stream ultimately discharges into the Irish Sea at Killiney Bay via the Carrickmines Stream and Shanganagh River. Therefore, there is a hydrological link between the site and Rockabill to Dalkey Island SAC via surface water discharges from the site during the construction and operational phases.

The foul discharge from the proposed development will be directed to the existing Carrickmines Valley Sewer which runs to the Shanganagh WWTP. The Rockabill to Dalkey Islands SAC is located off shore approximately 1.4km from the mouth of the Shanganagh River. Foul water from the site will discharge via the Shanganagh WWTP to the Irish Sea via the long sea outfall and short sea outfall.

Surface water will be collected in the proposed onsite surface water drainage network and treated and attenuated prior to discharge to the existing 225mm diameter sewer in the adjoining Cairnbrook Estate to the west of the Site. This 225mm diameter sewer increases to 300mm diameter and outfalls to an existing 300mm diameter sewer on the Glenamuck Road. The surface water discharged from the site will ultimately discharge to the Glenamuck North Stream and then the Carrickmines Stream.

The habitats and species of Rockabill to Dalkey Island SAC (003000) are 5.8km downstream of the site and water quality is not a target for the maintenance of any of the QI's within the SAC. In addition, and having regard to the separation distance, I am satisfied that there is no conflict in terms of the conservation objectives of Rockabill to Dalkey Island SAC. Any minor discharge into Glenamuck North Stream would be diluted by the water cycle and unlikely to pose any significant risk to rivers and streams that discharge into it.

The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note the development is located on serviced lands in an urban area.

The subject site is identified for development through the land use policies of the Dun Laoghaire Rathdown County Development Plan 2022-2028. This statutory plan was adopted in June 2022 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is for a relatively small residential development providing for 167 no. units, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

It is my view that the foul discharge from the site would be insignificant. The proposed development is likely to result in a marginal increase in the discharge of wastewater to the Irish Sea. The development will incorporate SuDS and drain to the municipal system. It is considered that there is no risk that pollutants could reach the SAC in sufficient concentrations to have any likely significant effects on its qualifying interests.

The Preliminary Construction and Environmental Management submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.

The site is located in an urban area and has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development



would not be likely to have a significant effect on the Rockabill to Dalkey Island SAC or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

#### *In Combination Effects*

The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any SAC or SPA. There are no projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

#### *AA Screening Conclusion*

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

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Rockabill to Dalkey Island SAC (003000) any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid

significant effects on European sites have not been considered in the screening process.

### 13.0 **Conclusion and Recommendation**

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be refused to be granted for the proposed development, for the reasons and considerations set out in the draft Order below.

### 14.0 **Recommended Order**

**Application:** for permission under Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 5<sup>th</sup> day of August 2022 by John Spain Associates, on behalf of Grafton Issuer DAC.

#### 14.1. **Proposed Development:** The application comprises:

The demolition of existing outbuildings on site and provide for the construction of 167 no. residential units, a childcare facility with a GFA of 188 sq.m., associated internal roads, pedestrian and cycle paths, open space, and all associated site and infrastructural works.

The residential component of the development consists of 98 no. apartments and 69 no. houses, to be provided as follows:

- 30 no. 1-bed apartments;
- 47 no. 2-bed apartments;
- 21 no. 3-bed apartments;
- 43 no. 4-bed (Type A, A1 and D) houses;
- 26 no. 3-bed (Type B, C and E) houses;

The 98 no. apartments are to be provided within 3 no. apartment buildings of 5 no. storeys in height, each over basement level, with adjacent surface car parking. The houses consist of 2 and 3 storey terraced, semi-detached and detached dwellings.

The proposal contains a total of 237 no. car parking spaces, including 173 no. at surface level and 64 no. at basement level, 253 no. bicycle parking spaces, including 34 no. at surface level and 219 no. secure spaces at ground floor level of the apartment buildings, and 6 no. motorcycle parking spaces at basement level. The vehicular access to the development is to be provided from Cairnbrook residential estate to the west, including associated works to facilitate same. A vehicular entrance is also proposed from Springfield Lane to access the house proposed on the northern part of the site. Pedestrian and cycle links are proposed to Springfield Lane to the north and to link to the permitted development (Reg. Ref.: PC/H/01/19) at Rockville Drive / Glenamuck Cottages to the south.

Bin stores, plant rooms and block cores are located at basement and ground floor level of the apartment buildings. The proposed development includes private amenity space, consisting of balconies / terraces for all apartments and private gardens for the houses, public and communal open space, including children's play areas and an ancillary play area for the childcare facility, PV panels and green roofs at roof level of the apartment buildings, public lighting, utilities infrastructure and an ESB Substation. The proposal includes all associated site and infrastructural works, including tie-ins to existing infrastructure in the Cairnbrook residential estate, foul and surface water drainage, attenuation tanks, hard and soft landscaping, boundary treatments, internal roads, cycle paths and footpaths.

**Decision:** Refuse permission for the above proposed development based on the reasons and considerations set out below.

**Matters Considered:** In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any

submissions and observations received by it in accordance with statutory provisions.

## 15.0 **Reasons and Considerations**

1. The proposed unit mix fails to comply with Table 12.1 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and would be contrary to Policy Objective PHP27 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the design and layout of the proposed development is contrary to Policy Objective PHP35: Healthy Placemaking of the Dun Laoghaire Rathdown County Development Plan 2022-2028 having regard to the following:
  - (a) The desire to increase connectivity falls short in terms of the qualitative provision within the scheme and the lack of appropriate pedestrian or cycle connectivity to the wider area over Springfield Lane to the north and lands to the south fails to adhere to the requirements of DMURS. Whilst not actively engaging with the adjoining Cairnbrook residential lands results in development that conflicts with the established road hierarchy resulting in potential hazardous access arrangements and would fail to create a sense of place. The recommendation of the Safety Audit haven not been incorporated into the scheme as a result it is considered that the development would endanger public safety and traffic safety.
  - (b) The alignment of the apartment blocks significantly impacts the quality layout of the scheme resulting in undue overshadowing and perceived sense of overlooking by virtue of proximity to house no's 35-37. In addition, the separation distance between blocks 01 and 02 provides limited outlook for the bedroom windows between the blocks, as a result, it is considered that the development is not in accordance with section 3.2 of the Building Height Guidelines 2018 as they

relate to minimising overshadowing and loss of light and the resulting impact quality placemaking standards.

(c) The layout does not appropriately reflect the adjoining permitted Part 8 development, in particular, the boundary treatment along the shared eastern site boundary and the juxtaposition of 19B and 18B as they relate to the permitted Part 8 housing. On the basis of the evidence submitted the Board cannot be satisfied that the development will not impact negatively on the ability to complete the Part 8 permission or the proposed development.

It is considered that proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. It is considered the proposed development is contrary Policy Objective GIB18: Protection of Natural Heritage and the Environment of the Dun Laoghaire Rathdown County Development Plan 2022-2028 where it is a stated Policy Objective *“to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated areas of high nature conservation value known as locally important areas which also serve as ‘Stepping Stones’ for the purposes of Article 10 of the Habitats Directive”*. The development plan states that the implementation of this policy objective involves inter alia identification and protection of non-designated sites of local and high nature conservation value, and the management of features of the landscape which are of major importance for wild fauna and flora in accordance with Article 10 of the Habitats Directive.

On the basis of the evidence submitted, the Board cannot be satisfied that the proposed development will not result in adverse impacts on important habitats with affinity to Annex 1 habitats and wetland and grassland habitats with affinity to Annex 1 habitat and as such is contrary to Policy Objective GIB18: Protection of Natural Heritage and the Environment of the Dun Laoghaire Rathdown County

Development Plan 2022-2028 and the proper planning and sustainable development of the area.

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Irené McCormack  
Senior Planning Inspector

10<sup>th</sup> July 2023