



An
Bord
Pleanála

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

Inspector's Report ABP-314546-22

Strategic Housing Development	438 no. Build to Rent apartments, creche and associated site works.
Location	Sector 3, Aiken's Village, Townland of Woodside and Kilgobbin, Stepside, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Applicant	Ironborn Real Estate Limited
Prescribed Bodies	Irish Water
Observers	See Appendix 1
Date of Site Inspection	31 st of May 2023
Inspector	Stephen Ward

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development application 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 is located within the 'Aiken's Village' residential area on the southern margins of Dublin City, approximately 1km north of Stepside village centre and 1km south of the M50 Motorway. The LUAS Green Line runs to the east of the site, with the 'Glencairn' stop c. 600m to the east and the 'Gallops' stop c. 1km to the southeast. The surrounding area is mainly characterised by residential development of varying form and design. There is also a range of other uses in the area including open space, several schools, and local commercial/community services at Lambs Cross, Belarmine Local Centre, and Sandyford Hall.
- 2.2. The site has a stated area of 3.39 hectares and consists of two separate land parcels. The main portion of the site comprises a former building site compound which is mainly bound by construction hoarding. There is a block wall along the eastern site boundary, supplemented by existing trees within the Fernleigh estate. Internally, the site includes several informal construction roads as well as a variety of soil deposits and temporary construction features. It mainly consists of grassland and bare ground. The site levels vary but generally fall gradually from northwest to southeast.
- 2.3. It is mainly surrounded by existing residential development and associated open spaces. This includes Thornberry Road to the north, Atkinson/Belmont Drive and Sandyford Reservoir to the west, Ferncarrig Avenue/Fernleigh estate to the east, Village Road and Cluain Shee to the southwest, and a pumping station and Grianan Fidh to the southeast.
- 2.4. The smaller portion of the site is located c. 300 metres southeast of the main site, between Grianan Fidh, Sandyford Hall Crescent, and Belarmine Vale. This portion is within the ownership of Dun Laoghaire Rathdown County Council and comprises a grassed portion of a larger open space containing walkways and significant planting.

3.0 Proposed Strategic Housing Development

3.1. The development involves the construction of 438 Built to Rent apartments in 9 blocks. The housing mix is proposed as follows:

Apartment Type	No. of Units	Percentage of Units
1 bed	154	35%
2 bed	284	65%
Total	438	100%

3.2. The development has a height ranging from 2-8 storeys over 2 no. independent single level basements. Blocks A-D are located over Basement 1 (c. 6,002 sq.m.) and Blocks F-J are over Basement 2 (c. 5,058 sq.m.) In addition to the proposed apartments, the development also includes:

- Public open space (c. 9,799 sq. m).
- Private communal amenity open space (c. 4,579 sq. m).
- Childcare facility (c. 514.9 sq. m) including and outdoor play area (c. 204 sq. m).
- Resident amenity space / communal areas (c. 1,455.7 sq. m – Block G: c. 537 sq. m and Block C: c. 918.7 sq. m).
- New vehicular access to Basement 1 from Atkinson Drive and new vehicular access to Basement 2 from Thornberry Road.
- 350no. car parking spaces.
- 669no. cycle parking spaces.
- 14no. motorcycle spaces.
- Communal bin storage and plant at basement/roof levels.
- Provision of an underground foul water storage tank and associated connection to the wastewater networks including ancillary above ground kiosk and appropriate landscaping.

- Ancillary site development and infrastructural works, hard and soft landscaping and boundary treatment works, including linkages to adjacent sites.

3.3. The key figures for the proposed development are summarised in the table below.

Key figures for the Proposed Development

Gross Site Area	3.39 ha
Net Site Area	2.84 ha (residential site only)
No. of apartments	438 units
Residential Floor Area	40,475 sq.m.
Gross Floor Area	53,505.8 sq. m
Net Density	154 units per ha
Plot Ratio	1.9
Site Coverage	57%
Height	2-8 storeys over basement
Dual Aspect	52%
Car Parking	350 spaces (343 at basement level and 7 at surface level for drop-off /servicing /childcare)
Bicycle parking	669 spaces (597 for residents at basement level and 72 at surface level for visitors / childcare)
Communal Amenity Space	4,579 sq.m.
Public Open Space	c. 4,930 sq. m (c. 17.4% of total Site Area without DLRCC owned open space lands) c. 9,799 sq. m (c. 34.5% of total Site Area with DLRCC owned open space lands)
Part V	10% (43 units)

3.4. In addition to the standard plans, drawings, and particulars, the application is accompanied by the following documents and reports:

- Environmental Application Planning Report & Statement of Consistency (including Response to An Bord Pleanála Opinion)
- Material Contravention Statement
- Design Statement
- Housing Quality Assessment
- Verified Photomontages and CGIs
- Landscape and Visual Impact Assessment
- Landscape Design Report
- Drainage Design Report
- Flood Risk Assessment (including Flood Risk Guidelines Statement of Consistency)
- Stormwater Audit (Stage 1)
- Traffic & Transport Assessment
- Quality Audit
- Appropriate Assessment Screening Report
- Ecological Impact Assessment
- Environmental Impact Assessment Screening Report
- Statement in Accordance with Section 299B
- Hydrological & Hydrogeological Qualitative Risk Assessment
- Water Framework Directive (WFD) Assessment
- Sunlight, Daylight & Shadow Assessment
- Wind Microclimate Modelling Report
- Archaeological Desktop Assessment
- Arboricultural Assessment

- Arboricultural Impact and Tree Protection Strategy Report
- Site Lighting Report
- Sustainability Report
- Building Lifecycle Report
- Construction Environmental Management Plan
- Construction & Demolition Waste Management Plan
- Operational Waste Management Plan
- Telecommunications Impact Assessment Report
- Site Specific and Operational Management Plan Report
- Social Infrastructure Audit.

4.0 Planning History

I have noted the following planning history as being relevant to the application:

ABP Ref. ABP-309828-21: On 15th July 2021 the Board decided to grant permission for the construction of 445 no. Build to Rent apartments, creche and associated site works. An application for Judicial Review was lodged with the High Court in September 2021 and the case has not been determined at the time of writing (case 2021 JR 804).

ABP Ref. ABP-306471-20: On the 28th April 2020 the Board decided to refuse permission for the construction of 444 no. apartments, childcare facility and associated site works. The reasons for refusal were as follows:

1. Having regard to the existing deficiency in the provision of adequate wastewater infrastructure serving the subject site and the lack of certainty in relation to the wastewater network capacity to accommodate the proposed development without increasing the risk of flooding, it is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of wastewater facilities and the period within which this constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health

and would be contrary to the proper planning and sustainable development of the area.

2. The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as connections and inclusivity. At the neighbourhood level it is considered that the proposed development has failed to successfully address the criteria of connections and inclusivity. The arrangement of apartment blocks and the position of Blocks E and K, in particular, decreases the availability of attractive routes in and out of the development for pedestrians and cyclists. The main central area described as public open space is not readily accessible with Blocks E and K presenting an unnecessary physical and visual barrier to the space, which is considered would be seriously injurious to the residential amenities of future occupants and contrary to the provisions of the “Urban Design Manual – a Best Practice Guide” and to Policy UD 1 – Urban Design Principles of the Dún Laoghaire Rathdown County Development Plan 2016-2022.

The positioning of apartment blocks also results in sub-optimal separation distances between some blocks and fails to ensure high quality living environments for some apartment units that rely on single aspect and, as such, would be contrary to the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018 with regard to living spaces that should provide for direct sunlight for some part of the day has not been met satisfactorily.

The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

ABP Ref. PL06D.239332 (P.A. Reg. Ref. D10A/0440): On the 5th of December 2011 the Board upheld the planning authority decision to grant a 10-year permission for 410 residential units (comprising 206 houses and 204 apartment units), local retail/community facilities and associated works and services. Under condition no. 3 of the permission the total number of permitted houses was reduced to 355.

This application included the current site within a larger site of 11.82 hectares. The application states that 289 no. units have since been constructed.

An application to extend the duration of the parent permission (P.A. Reg. Ref. D10A/0440) was refused on 16th September 2022 for the following reasons:

1. Given that Reg. Ref. D10A/0044 (ABP Ref. PL06D.239332), exceeds the threshold set in Item 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2022, and therefore, exceeds the threshold above which a development is likely to have significant effects on the environment, thus requiring the preparation of an Environmental Impact Statement, it is considered that extending the appropriate period is contrary to s.42(8) of the Planning and Development act 2000 (as amended).

2. The Planning Authority is not satisfied that the permitted development will be completed within a reasonable time. Therefore, the criteria set by Clause IV of section 42(1)(a) is not considered to be met.

Under **P.A. Reg. Ref. D16A/0511** permission was granted on 16th December 2016 for amendments to the parent permission (P.A. Reg. Ref. D10A/0440) to provide the following in Sector 3: 11 no. residential blocks comprising 243no. apartments and duplexes ranging in height from 3 – 6 storeys; Provision of a 1 – 2 storey community building; Provision of 2no. single level basements.

An application to extend the duration of P.A. Reg. Ref. D16A/0511 was also made. According to the latest correspondence on the planning authority website (accessed 19th June 2023) a DLRCC letter of the 12th of December 2022 outlines that a decision on this application has been postponed pending the outcome of legal proceedings in relation to the ‘extension of duration’ decision for the parent permission (P.A. Reg. Ref. D10A/0440).

5.0 Section 5 Pre-Application Consultation

5.1. Pre-Application Consultation ABP-312212-21

5.1.1. The pre-application consultation related to a proposal for 445 no. Build to Rent apartments, plus a crèche and all associated site works.

5.1.2. A section 5 consultation meeting took place on the 4th of May 2022, remotely via Microsoft Teams. Representatives of the prospective applicant, the planning authority and ABP were in attendance. An agenda was issued by ABP prior to the meeting and the main issues raised for discussion at the tripartite meeting were as follows:

1. Compliance with statutory Development Plan policies (Suitability of the site for BTR Scheme and Unit Mix).
2. Previous permission on this site (D10A/0440), as amended by subsequent permissions.
3. Transportation, access, connectivity, and car parking.
4. Impact on existing and future residential amenities (height, overlooking, overshadowing, overbearing, quality and quantum of open space).
5. Supporting community infrastructure, location and layout of non-residential uses.
6. AOB.

5.1.3. Following consideration of the issues raised during the pre-application consultation process and, having regard to the consultation meeting and the submission of the planning authority, ABP issued an opinion that the documentation submitted constitutes a reasonable basis for an application for Strategic Housing Development.

5.1.4. Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following information (as summarised) should be submitted with any application for permission:

1. 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.

2. A statement outlining how the proposal is consistent with specific objectives of the Dun Laoghaire Rathdown Development Plan 2022 – 2028.
 3. A Material Contravention statement.
 4. A statement demonstrating how the proposal ties in with the wider development strategy for the landholding and the overall Aiken Village / Belarmine area.
 5. A detailed schedule of accommodation which indicates consistency with relevant standards and SPPRs in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2020) including a report (Site Specific Management Plan) which addresses the use of the residential support facilities and amenity areas.
 6. A childcare demand analysis.
 7. Inclusion of a Social and Community Audit of schools in the vicinity.
 8. Detailed landscape drawings.
 9. A Daylight and Shadow Impact Assessment.
 10. Submission of a Traffic and Transport Assessment.
 11. An up-to-date Ecological Assessment, inclusive of a Bat Survey.
 12. A response to matters raised within the PA Opinion submitted to ABP.
 13. A building life cycle report.
 14. A site layout plan indicating areas to be taken in charge.
 15. Site Specific Construction and Demolition Waste Management Plan.
 16. Details of public lighting.
- 5.1.5. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:
1. Irish Water
 2. Dun Laoghaire Rathdown County Childcare Committee.

5.2. Applicant's Response to Pre-Application Opinion

- 5.2.1. The applicant has submitted a 'Planning Application Report & Statement of Consistency' which includes a 'Response to An Bord Pleanála Opinion'. The response outlines how the application has responded to each of the points raised in the Board's Opinion.
- 5.2.2. The Statement of Consistency has been submitted in accordance with Section 8(1)(iv) of the Act of 2016. It contends that the proposal is consistent with the relevant national and regional planning policy, guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended), and with the Dun Laoghaire Rathdown County Development Plan 2022-2028 (apart from those provisions outlined in section 7 of this report). I have had regard to same in my assessment.

6.0 Relevant Planning Policy

6.1. National Policy

- 6.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submission 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 'Sustainable Residential Development Guidelines').
 - Design Manual for Urban Roads and Streets (DMURS) (2019).
 - The Planning System and Flood Risk Management including the associated Technical Appendices, 2009 (the 'Flood Risk Guidelines').
 - Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2022) (the 'Apartments Guidelines').
 - Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
 - Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education Scheme (the 'Childcare Guidelines').

- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

6.1.2. ‘Housing for All - a New Housing Plan for Ireland (September 2021)’ is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price.
- Built to a high standard in the right place.
- Offering a high quality of life.

6.1.3. ‘Project Ireland 2040 – The National Planning Framework (NPF)’ is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.

- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.4. The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

6.2. **Regional Policy**

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The site is located within the identified 'Dublin City and Suburbs' area. Regional Policy Objective (RPO) 4.3 supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the area and aims to ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

6.2.2. The Dublin Metropolitan Area Strategic Plan (MASP) seeks to focus on several strategic development areas/corridors that will deliver significant development in an integrated and sustainable fashion. The 'Metrolink – LUAS' strategic development corridor extends to the east of the site where it is envisaged that upgrades to the

existing LUAS Green line will support development including new and emerging mixed-use districts of Cherrywood and Sandyford, and new residential communities in Ballyogan and environs and Kiltiernan-Glenamuck. Cherrywood, Ballyogan and Sandyford are also identified as Strategic Employment locations.

- 6.2.3. The Greater Dublin Area Transport Strategy 2022-2042 (NTA) sets out a framework aiming to provide a sustainable, accessible, and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

6.3. **Local Policy**

Dun Laoghaire Rathdown County Development Plan 2022-2028

- 6.3.1. The Core Strategy (Table 2.11) identifies several 'new residential communities', including 'Ballyogan & Environs' to the southeast of the site, and a housing target of 18,515 no. residential units. Policy Objective CS2 supports the delivery of the Core Strategy in accordance with the Core Strategy Map and Table 2.11. Policy Objective CS7 supports the delivery of strategic employment growth areas including Sandyford Business District, Cherrywood, and Carrickmines.
- 6.3.2. In Figure 2.11 'Compact Growth', the application site is identified one of the 'Residential sites relating to Dublin City and Suburbs'. Policy Objective CS11 is to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.
- 6.3.3. Chapter 3 'Climate Action' outlines how the creation of a climate resilient county is an overarching strategic outcome of the plan and that this theme permeates the entire plan. This includes the Core Strategy approach of promoting compact growth and development along public transport corridors.
- 6.3.4. Chapter 4 'Neighbourhood – People, Homes and Place' aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning.
- 6.3.5. Section 4.2 deals with 'People' and aims to facilitate a balance between additional housing units, community facilities, and quality of life. It outlines that several school

sites have been identified following consultation with the Department of Education, including sites in Ballyogan, Sandyford, and Kiltiernan. Relevant policies/objectives can be summarised as follows:

PHP3: Ensure that supporting neighbourhood infrastructure/land is provided in conjunction with, and as an integral component of, residential development.

PHP6: Encourage childcare facilities as an integral part of new residential developments. In general, at least one facility for all new residential developments.

PHP7: Protect existing schools and ensure the reservation of school sites in line with the requirements of the relevant education authorities. Support the provision of new/upgraded school facilities and other community infrastructure uses.

6.3.6. Section 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

PHP18: Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

PHP20: Seeks to protect the residential amenity of existing properties.

PHP27: Encourages an appropriate mix of housing.

PHP28: Facilitate Build-to-Rent residential development in suitable locations in accordance with the 'Apartments Guidelines' (2020) and any amendments. A proliferation of Built-to-Rent should be avoided in any one area.

6.3.7. Section 4.4 'Place' promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a high quality of design and layout in residential developments. Policy objective PHP42 aims to ensure high quality design of all new development and compliance with the Building Height Strategy for the County (consistent with NPO 13 of the NPF).

6.3.8. Chapter 5 'Mobility and Transport' outlines a range of policies and objectives which aim to integrate land use and transport policy, thus promoting compact sustainable growth, traffic demand management, and modal change towards increased use of public transport and active travel.

6.3.9. Chapter 8 'Green Infrastructure and Biodiversity' adopts the principle of sustainable development and identifies green infrastructure as a key strategic asset for the

County, and one which can aid in the creation of a climate resilient County. It includes a range of policies for the protection, creation, and management of this resource in an integrated manner. Appendix 14 includes a Green Infrastructure Strategy.

6.3.10. Chapter 9 ‘Open Space, Parks and Recreation’ outlines the importance of such resources in terms of health and well-being, social interaction, connectivity, and biodiversity. Policy objective OSR4 promotes public open space standards in accordance with the ‘Sustainable Residential Development Guidelines’.

6.3.11. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:

12.3 outlines guidance on criteria for residential developments and neighbourhood infrastructure. It aims for high quality design to improve the living environment and facilities for residents.

12.4 sets out Transport guidance, including standards relating to traffic management, road safety, and parking.

12.8 deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

6.3.12. Chapter 13 deals with ‘Land Use Zoning Objectives’. The majority of the application site is zoned ‘*Objective A - To provide residential development and improve residential amenity while protecting the existing residential amenities*’. The southern margin of the larger site portion and all of the smaller site portion is zoned ‘*Objective F - To preserve and provide for open space with ancillary active recreational amenities*’.

6.3.13. Appendix 5 contains the Building Height Strategy for the County.

Stepaside Action Area Plan

6.3.14. Appendix 12 ‘Policy Context’ of the Development Plan states that this plan was adopted by the council in July 2000. It shows the application site as a ‘primarily residential’ development parcel with a ‘potential local business zone’ in the southwest corner. Open space and pedestrian linkages are also indicated to the south and west of the site.

7.0 **Material Contravention Statement**

7.1. A Material Contravention Statement has been prepared as required under Section 8 (1)(iv)(II) of the Act of 2016. It addresses the issue of material contraventions of the Dun Laoghaire County Development Plan 2022-2028 and contends that there is reasonable justification to grant permission having regard to the relevant criteria under Section 37(2)(b) of the Planning and Development act 2000, as amended. The Material Contravention issues identified by the applicant and the submitted justification for same are outlined in the following sections.

7.2. **Building Height**

The applicant submits that increased height could be permitted in accordance with BHS 1 given that the site is within 1km / 10-min walk of Glencairn Luas stop. However, the site could also be considered a 'residual suburban area' as per BHS 3 and therefore a precautionary approach has been adopted.

As such, the applicant outlines an argument that the development can be permitted in accordance with SPPR 3 and section 3.2 of the Building Height Guidelines (which reflects the criteria in table 5.1 of the Development Plan Building Height Strategy), as well as the NPF and RSES objectives which seek to promote increased density and compact growth at accessible locations. Therefore, it is stated that permission can be granted in accordance with section 37(2)(b)(iii) of the Act.

7.3. **Separation Distances**

In some instances, the separation distances between existing (Thornberry Road) and proposed blocks are less than the 22 metres referred to in section 12.3.5.2 of the Plan. The applicant submits that this is justified in the context of the guidance set down in the following:

- NPO 13 of the NPF which supports the application of standards based on performance criteria.
- The Apartment Guidelines 2020 which favour performance-based standards in favour of blanket restrictions on separation distance, and which in turn is supported by the daylight and sunlight analysis submitted with the application.

- The Sustainable Residential Development Guidelines which promote qualitative standards as well as quantitative standards for separation.

The applicant submits that design measures have been incorporated to address instances where the separation is less than 22 metres, and that permission can be granted in accordance with section 37(2)(b)(iii) of the Act.

7.4. **Public Open Space**

The applicant submits that the proposed public open space (4,930m²) amounts to 17.4% of the residential site area (2.84ha), thus exceeding the minimum Development Plan (section 12.8.3.1) requirement for 15%. However, 2 no. attenuation tanks will be located beneath the public open space. Should the Board consider that these attenuation areas should not be included in open space calculations, the applicant accepts that a Section 48 development contribution can be applied in lieu of any shortfall.

Should the Board consider that that the payment of a contribution in lieu of a shortfall is not appropriate, and therefore a material contravention arises, the public open space is considered appropriate in the context of the Sustainable Residential Development Guidelines (and section 37(2)(b)(iii) of the Act) which provides for flexibility in public open space standards, 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. The applicant highlights the cumulative extent of open space associated with other phases of development and the wider context and submits that there would be an exceptional level.

7.5. **Unit Mix**

The Development Plan is the subject of a Ministerial Direction which states that the following part of the Development Plan shall be taken to not come into effect:

The second paragraph of Section 12.3.3 'Quantitative Standards for All Residential Development' of Chapter 12 (pg. 236) of the Written Statement, which states: "That the requirement for certain percentages of 3-bed units in apartments shall apply to Build To Rent developments to accord with mix on page 237."

If that part of the Plan were to come into effect, the applicant submits that the provisions in relation to unit mix set out in SPPR 8 of the Apartment Guidelines

(2020) take precedence (i.e. no restriction of mix shall apply) and justify a material contravention under section 37(2)(b)(iii) of the Act.

7.6. **Strategic or National Importance (s. 37(2)(b)(i) of the Act)**

The applicant submits that for all the above issues the proposed development can be deemed of strategic importance and national importance having regard to the definition of 'strategic housing development' and a range of national housing and planning policy. This includes assisting in meeting the objectives of 'Rebuilding Ireland/Housing For All', compliance with the relevant national outcomes/objectives of the NPF, and compliance with the objectives of the RSES. The applicant submits that the Board can grant permission on this basis of strategic or national importance.

8.0 **Third Party Submissions**

8.1. A total of 132 no. submissions have been received. The submissions generally raise common issues and objections which can be summarised under the following headings.

8.2. Planning History

- The previous SHD permission (ABP Ref. 309828-21) is subject to Judicial Review and there are various concerns about the consideration of the current application in that context.
- The Board is asked to take as its starting position planning permission P.A. reg. ref. D10A/0440, as amended by reg. ref. D16A/0511, but it is submitted that there is no extant permission for the site. It is submitted that permission expired on 7th March 2022 and that the failure to complete the permission renders that portion of the development a substantial unauthorised development, which has significant implications as the current application seeks to rely on elements of the previous permission.
- It is submitted that there is a real and substantial risk that the developer would not complete any permission granted and that the Board should refuse permission in accordance with Section 35(5) of the Act.
- The previous permissions would be suitable for implementation.

- The proposal is similar to the previously refused application (ABP Ref. 306471).

8.3. The principle of the development

- Observers generally do not object to the principle of residential development.
- BTR development is only 'open to consideration' under the 'A' zoning and it is not compatible with the overall policies and objectives for the zone, as confirmed by the planning authority. It would materially contravene the zoning and cannot be granted under Section 6(6) of the 2016 Act.
- The BTR model is due to be abolished and there is no justification to permit additional developments.
- The location is contrary to the provisions outlined in section 4.3.2 and Policy Objective PHP28 of the Development Plan, which support BTR development close to high quality public transport and discourage a proliferation of BTR. The proposal would materially contravene Objective PHP28.
- There is a legacy of redundant building stock in the area which can be repurposed for residential use.
- The Office of the Planning Regulator has raised concerns about an excess of zoned land and residential development in South Dublin.
- The Board needs to demonstrate that the proposal is consistent with accommodation requirements and an overall strategy for SHDs.
- The proposal conflicts with Draft Dublin City Development Plan 2022-2028 restrictions on BTR development.

8.4. Excessive scale, height, and density

- The development is contrary to the Development Plan provisions which now post-date and take into account national policies and Section 28 Guidelines.
- The scale and density of the proposal is significantly higher than previous permissions and other existing development in the area.
- The CDP Building Height Strategy is for a maximum of 3-4 storeys in 'Residual Suburban Areas', which is based on empirical research and evidence.

- The proposal would represent overdevelopment of the site, would not integrate with existing development, and would not meet appropriate planning standards, which is not supported by national guidance.
- The RSES does not indicate that the development would be of strategic or national importance and does not support the nature and scale of the proposal at this location.
- The contravention of the Development Plan would not comply with the Development Management Guidelines (2007) as it would damage the culture of the planning service and would not support fair procedures and consistency in the interpretation of policies.
- The excessive height and scale in a mature residential area would be contrary to the Apartments Guidelines.
- The proposal would be contrary to the Sustainable Residential Development Guidelines (2009) which places the Development Plan policies at the heart of the planning system; requires adequate transport infrastructure; and requires infill development to protect residential amenity and established character. It is also non-compliant with the provisions of the accompanying Urban Design Manual.
- The Development Plan fully aligns with the Building Height Guidelines and would be contravened by the proposed development. The Development Plan has not identified the site as being suitable for this scale and density. The proposal does not comply with the SPPRs and criteria outlined in the Guidelines.
- The proposal would materially contravene objective PHP42 and the Building Height Strategy (including objectives BHS1 and BHS3) of the Development Plan and would not comply with the criteria outlined therein in Table 5.1.
- The proposal significantly exceeds and materially contravenes CDP density standards of 50 units per hectare and Apartments Guidelines standards of 45 dwellings per hectare.

8.5. Visual Amenity and character

- The proposal is abruptly out of scale alongside two-storey dwellings and the scale of existing/emerging development in the vicinity, particularly given the elevated nature of the site.

- The visual impact would dominate adjoining areas rather than integrate with them, and would not contribute to character, public realm, or placemaking.
- The excessive height, length, and bulk of Blocks F and J results in a cumulative monolithic and overbearing appearance adjoining Fernleigh.
- The proposal would adversely affect the skyline & key elements within the view, including the view from surrounding residents' properties.
- The Visual Impact Assessment is inadequate, misleading, and subjective. It does not comply with the 'Guidelines for Landscape and Visual Impact Assessment' and the conclusions are not accepted as there would be moderate and significant negative impacts on surrounding properties.
- The proposal materially contravenes the CDP/LAP in respect of the Architectural Conservation Area (ACA), Masterplan, Urban Design Framework.

8.6. Proposed residential standards

- Notwithstanding the Ministerial Directive, the proposal would materially contravene Table 12.1 of the Development Plan which requires a minimum 40% of 3+ bedroom units.
- The height, density, and scale of the proposal results in negative impacts, including poor communal space and public open space, as well as non-compliance with daylight/sunlight standards as per the 2022 BRE Guidelines.
- The separation distances materially contravene the 22m standard and cannot be justified by a previous grant which is now subject to Judicial Review. This results in overlooking, overshadowing, and overbearing impacts between blocks.
- No Section 28 Guidelines mandate reduced separation distances and NPO 13 in the NPF could never act to justify the material contravention of the CDP. There are no circumstances to justify reduced distances and the mitigation measures do not adequately address the matter.
- The use of bay window type designs does not constitute 'dual aspect' as per Section 12.3.5.1 of the CDP. The proposal does not meet the minimum requirement of 50% dual aspect units and would materially contravene this section of the CDP.

- The complete removal of 74 no. balconies is not in accordance with section 12.3.6 of the CDP or the Apartments Guidelines, and is acknowledgement of non-compliance with BRE 2022, and overlooking of existing/proposed properties. The complete absence of private open space and/or the lack of compensating communal space/facilities would materially contravene section 12.3.6.

8.7. Open Space

- Public Open Space is proposed within existing open space and includes underground attenuation tanks, which is not normally considered as per Section 12.8.2 of the CDP. There is no justification for not meeting the required standards on this 'greenfield' suburban site by reference to the Sustainable Residential Development Guidelines or otherwise.
- The application acknowledges that the provision of 2.08ha public open space (to the west) for this application is dependent on the existence of P.A. Reg. Ref. D10A/0440, which is now unauthorised.
- The scheme lacks quality open space. The courtyards would experience significant overbearing and overshadowing.
- There is inadequate green space left in Aiken's village and play facilities for children are deficient.
- The proposed storage tank will detract from the open space.
- The proposal materially contravenes CDP open space requirements.

8.8. Impacts on surrounding properties

- The proposed blocks are excessively tall/over-scaled and close to adjoining development, which results in overlooking, overbearing, overshadowing, and an incongruous streetscape appearance.
- The reduced height along Thornberry Road should be replicated along Fernleigh.
- Fernleigh residents object to the creation of pedestrian access on grounds of security, visual beaks, and ownership.
- The application cannot rely on the existing deciduous trees along the eastern site boundary and proposals for additional tree planting and boundary treatment are inadequate. There are also concerns that the trees will be cutback/damaged.

- No lighting should overspill to surrounding properties.
- Concerns are raised about potential construction stage impacts, including traffic and parking, boundaries, working hours, monitoring & complaints procedures, noise & vibration management, excavation, and dust & dirt impacts.
- The proposal would substantially depreciate the value of adjoining properties.
- The proposed bin set down will cause negative odours along Thornberry Road.

8.9. Traffic & Transport

- The capacity of the Luas has not been proven. It is already overloaded, and other permitted developments will further exceed capacity.
- Bus services do not have sufficient frequency or capacity.
- The inadequate provision of car-parking is not justified by the provisions of Section 12.4.5.2 of the Development Plan and is a material contravention.
- The car parking ratio (0.8) is unusually high for BTR, which is reflective of its proximity to the M50 in a highly car-dependent area and an unsustainable scheme. However, the ratio is still insufficient for an outer suburb as per CDP requirements and there is no basis to allow a reduction in standards.
- Inadequate parking would result in overflow to adjoining areas.
- The TTA is not based on accurate numbers and does not contain an adequate assessment of all relevant junctions (including junctions 1 and 2).
- The scheme is premature pending the provision of planned cycle infrastructure.
- Public transport capacity analysis is based on low usage of 23% (17% for the Luas). Current low usage of the Luas (Glencairn) demonstrates unattractiveness. There are concerns that the predicted Luas usage will not occur, and if it does that there will be knock-on capacity impacts further north along the line.
- The traffic survey (2019) is out of date and fails to account for Covid-19. The limited additional surveying (August 2022) should be disregarded as representing a holiday period. It is submitted that the information under-estimates traffic.
- There are concerns about cumulative traffic impacts on Village Road and that existing traffic conditions in the wider area have been under-estimated.

- The applicant's reports reference Metrolink, which would not be delivered within an appropriate timeframe.
- The proposed construction access route has a 3-tonne weight limit.
- The additional access points will pose a traffic safety concern.
- There is inadequate drop-off and servicing space.
- Traffic emissions will impact on air quality, climate, and biodiversity.
- There is inadequate electric vehicle charging facilities.

8.10. Community Facilities

- The planning authority recommended refusal on grounds of inadequate social infrastructure in the last SHD case and there have been no significant changes.
- The proposal is contrary to CDP objective PHP5 and has not demonstrated that there is adequate social/community infrastructure to cater for the existing and future needs of the area.
- The scheme does not offer sufficient childcare places and offers no additional creche spaces that the existing local community could use. There is no reasonable basis to reduce general standards of 20 spaces per 75 dwellings.
- The applicant under-estimates demand for primary and secondary school places, does not provide documentary evidence of future school capacity, and there are no plans to provide additional capacity in the area.
- The local facilities are suitable for a suburban area, not for BTR development.
- There is a need for additional accommodation for older people.

8.11. Daylight and Sunlight

- The Daylight and Sunlight Report is incomplete as it excludes some properties in Ferncarrig to the east and Thornberry to the north.
- The applicant has sought to address only the minimum BRE 2022 daylight and sunlight standards for the proposed development and has failed to meet even the minimum standard. An appropriately designed scheme on this site could easily achieve median or high standards. The proposal is non-compliant with minimum daylight standards for 5% of all units (22 units) and minimum sunlight standards

for 24 units, which is not acceptable. This is a material contravention of section 12.3.4.2 of the CDP, which has not been identified by the applicant.

- Daylight/sunlight deficiencies are not 'marginal' and have been caused by overdevelopment. The scheme includes inadequate compensatory measures for the individual units affected.
- Blocks F and J perform extremely badly on the target of 300 lux across 50% while 5% of rooms still fail for the standard of 100 lux across 95%.
- The BRE standard for open space (2 hours across 50% of the area on 21st March) is unsuitable for a greenfield context. Communal open spaces serving this scheme should receive sunlight for significantly longer than this.
- Despite the BRE guideline standards, the extent of overshadowing and loss of daylight to Fernleigh and Tornberry (open space and individual properties) is unacceptable. The Board must have regard to context, including the extent of overshadowing/loss of daylight in the afternoons/evenings and at key times of the year, as well as reductions to current levels of sunlight/daylight.

8.12. Water Services / Drainage

- There is significant runoff water impact in the area which appears to be polluted, and a significant foul sewage odour along Atkinson Road. The proposed 500m³ tank does not appear to be an adequate solution for recorded rainfall levels, and Irish Water correspondence refers to a different number of units and is based on a desktop study only.
- The lower levels of the site have experienced significant water logging.
- Irish Water makes it clear that the wastewater network does not have capacity and there is inadequate detail regarding the design and management of the proposed tank.
- The application does not demonstrate adequate capacity in relation to drainage, water services, and flood risk.
- The identified flood risks have been ignored and ground water displaced by the underground car park could inundate adjacent areas.
- The wastewater gravity sewer does not comply with Irish Water standards.

- The surface water drainage design is not clear and does not comply with DLRCC policies.
- The wastewater pumping station does not include adequate emergency overflow and would facilitate unacceptable ponding of sewage.
- The Flood Risk Assessment (FRA) is unclear. It should include a Stage 3 FRA and a 'Justification Test' due to groundwater flood risk, the lack of a combined hydraulic model of the surface water design, and the risk of foul sewer overflow.

8.13. Environmental Impact Assessment (EIA)

- The previous permission (P.A. reg. ref. D10A/0440) is EIA development which generally cannot be severed. The Board has a duty to give effect to the EIA Directive by monitoring the implementation or otherwise of that permission, which is mutually incompatible with the current application.
- The Board would be granting permission for the retention and alterations to significant parts of the EIA development (P.A. reg. ref. D10A/0440), including an attenuation tank, open space, and drainage, and there is no jurisdiction to do so as the entire development is unauthorised (Section 34(12) of the Act applies).
- Failure to meet BRE standards on sunlight and daylight could be said to have a major adverse impact on population and human health, which has not been referenced in the EIA Screening Report. The information submitted is incapable of forming a basis for a conclusion of no significant environmental effects for the purposes of Regulation 299B(2)(b) of the 2001 Regulations when read with Schedule 7A of the Regulations.
- The EIA screening fails to consider the impact on population and human health of increased pressure on services in the area.
- It is not permissible under EU law to curtail the CDP through the imposition of SPPRs without a new Strategic Environmental Assessment (SEA).
- The application is invalid by reference to Article 6(4) of the EIA Directive as the Chief Executive's Report is not available for comment by the public.
- The EIAR is inadequate and fails to cumulatively assess other projects.

- The applicant’s EIA screening report is inadequate and deficient in respect of the documentary requirements of the 2001 Regulations, the Act of 2000, the Act of 2016, and the EIA Directive.
- EIA screening has not adequately considered impacts on biodiversity and species habitats protected under the Habitats and Birds Directive.

8.14. Material Contravention

- The applicant refers to ‘potential material contraventions’ whereas section 8(1)(a)(iv)(II) of the 2016 Act requires a definite statement.
- The adoption of the CDP in April 2022 means that it is no longer possible to refer to the NPF, the RSES and Section 28 Guidelines as justification for material contraventions of a development plan, where that development plan is required to be in compliance with the same.
- SHD developments in and of themselves do not satisfy the requirement of being of “strategic or national importance”.
- Section 9(3)(b) of the 2016 Act only applies where the provisions of the development plan differ from an SPPR, and there is no conflict with SPPR3 of the Building Height Guidelines in the DLR CDP.

8.15. Nature Conservation

- The Board is required to independently assess impacts on ecology.
- Environmental Acts and the species on this land named in these Acts lead to a conclusion that the proposed development must be rejected.
- There may be disturbance of wildlife and protected species in the area, including bats, birds, foxes, badgers, and hedgehogs.
- There is insufficient information in relation to impacts on bird and bat flight lines/collision risks.
- Screening for Appropriate Assessment is inadequate for the following reasons:
 - It contains inadequate information, reasoning, methodology, site-specific surveys, and scientific expertise.

- It does not consider all aspects of the development including the construction phase and cumulative impacts with other projects.
- It impermissibly has regard to 'mitigation measures'.
- Reliance on the Ringsend WWTP is flawed.

8.16. Technical Issues / corrections

- The furthest distance to the Luas stop is 1.1 – 1.2km, which exceeds a suitable distance and renders the scheme unsuitable for BTR.
- Observers contend that there are multiple inaccuracies in the details and drawings submitted.
- The trees along the eastern boundary are not within the applicant's control and cannot be relied upon as a mitigation measure.
- The scheme over-relies on the Fernleigh open space area to the east.
- The Design Statement and CEMP include images which incorrectly depict Block F as being 5 storeys.
- The site has been used in the past for dumping spoil and landfill.

8.17. Other Issues

- There has been a lack of consultation with local residents and DLRCC.
- Notification to prescribed bodies has been limited and the Board needs confirmation from the relevant statutory authorities regarding the availability of adequate social and physical infrastructure.
- The Building Height Guidelines and the Apartments Guidelines (including SPPRs) are *ultra vires* and unconstitutional.
- There are concerns about additional energy demands and grid capacity.
- There are concerns that the scheme will be privately managed, while being surrounded by publicly managed lands.
- Continued use of the unfair and undemocratic SHD Material Contravention provisions would bring the planning system into disrepute.
- Observers question whether this commercial BTR development qualifies as SHD.

- The proposal would set an undesirable precedent for further overdevelopment and associated concerns.
- The proposal conflicts with the terms of consent provided by DLRCC, i.e., it includes loss of trees in the area where the attenuation tank is to be placed.
- The Board is expected to carry out independent due diligence on all submitted drawings and documentation, including environmental effects.
- Part V commitments need to be verified (in terms of need and affordability) and the proposed units are not appropriately dispersed throughout the scheme.
- The BTR 'Deed of Covenant' conflicts with the intent of the 2016 Act and Part V provisions regarding the potential sale of individual units.
- There are concerns that the development is an attempt to enhance property value rather than to deliver housing.
- The developer has not completed works on the Belmont common areas.
- Decisions on such proposals should be left to the local authority.

9.0 Planning Authority Submission

9.1. The planning authority has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the elected members as expressed at the area committee meeting of the 4th October 2022 (summarised below). The planning and technical analysis is outlined in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) and the main issues are summarised below.

9.1.1. Views of the Elected Members Area Committee

The committee outlined a range of concerns which can be summarised as follows:

- The scale, height, and density are excessive and will have an adverse visual impact on the area.
- The location is not suitable for BTR development and the proposed mix of units is inappropriate.

- Public transport infrastructure is inadequate, and the additional traffic cannot be adequately or safely accommodated.
- The area does not have adequate facilities and services to cater for the additional population, including the cumulative impact of other projects.
- The proposed layout requires revision.
- There may be negative impacts on protected wildlife/habitats, including badgers.
- There are concerns about Irish Water management and attenuation areas.
- It is bad faith to submit an application during ongoing judicial review proceedings.
- Construction hours and activities need to be controlled.
- There are concerns about loss of light/overshadowing of existing properties, as well as noise and wind impacts.

9.1.2. PA Comment on the principle of development and zoning

- Residential and childcare uses are 'permitted in principle'.
- BTR development is 'open to consideration' and is considered acceptable given that it would not contravene Policy Objective PHP28 in respect of proximity to public transport and proliferation of BTR developments.
- The southern part of the main site is acceptable in accordance with the open space 'F' zoning objective.
- Regarding the attenuation tank in the smaller southern portion of the site, 'public services' are 'open for consideration' in the 'F' zone but there are concerns that a diminution of recreational value would be inconsistent with the zoning objective.
- The lack of community facilities is not appropriate to cater for the needs of existing and future residents. Additional community facilities should be incorporated by condition if a grant of permission issues.

9.1.3. PA Comment on Density and Height

- The density of c. 154 units per hectare is significantly higher than existing development and may impact on the amenity of existing and future residents.

- The report outlines Policy Objective BH3 and a view that the location and elevated nature of the site is unsuitable for more than 6 storeys (the general height is stated to be 2-5 storeys).
- The proposal does not comply with the criteria in Table 5.1 of the Building Height Strategy and would be contrary to Policy Objective PHP42 of the CDP. In summary, the following concerns apply:
 - The location does not focus on key urban centres or brownfield/infill.
 - The site is not 'well served' by public transport. It is an 'intermediate suburban location'.
 - The height and scale would be visually intrusive and domineering and does not enhance the receiving environment.
 - Infrastructural capacity concerns have been raised by the DLRCC Transport section and Irish Water.
 - The proposal fails to deliver of the Urban Design Manual criteria.
 - There is a lack of connectivity and legibility.
 - There is an inadequate mix of housing.
 - There would be significant impacts on the outlook and privacy of adjoining neighbours, particularly those to the north of the site.
 - Concerns about overlooking and overbearing of adjoining properties.
- There are no specific objectives/criteria in the CDP which would be contrary to the Building Height Guidelines.

9.1.4. PA Comment on Residential Amenities

- The separation distance of 22 metres is not achieved for Thornberry Road or within the scheme and there is no justification for flexibility on the matter.
- There are concerns about overshadowing of the internal communal amenity areas. The removal of Block E would aid this issue.

9.1.5. PA Comment on Design, Form and Layout

- The design is bulky and overbearing and there are outstanding concerns about building height.
- The removal of Block E would improve the quality of open space, permeability, light and residential amenity.

9.1.6. PA Comment on Standard of Accommodation

- The mix of units does not materially contravene the CDP but a mix of 3-bed+ units would be preferable.
- Appendix B outlines that the proposed standards are generally acceptable in accordance with Apartments Guidelines and SPPRSs, even without the flexibility allowed for BTR development under SPPR 8. Some issues are raised regarding:
 - Ground floor ceiling heights
 - Hallway and circulation widths
 - A lack of school capacity and other community facilities
 - Children's play areas.

9.1.7. PA Comment on Open Space

- The proposal exceeds the minimum standard of 15% for the site area.
- The Parks report has also recommended the removal of Block E and conditions regarding trees, landscaping, connections, and reinstatement/accessibility of the attenuation tank site.

9.1.8. PA Comment on Community Infrastructure

- The provision of the childcare facility is welcomed.
- There are no proposals for significant increase of school capacity in the area and the applicant's suggestion of a natural decline in school-going population is not a suitable response/solution, contrary to Objective PHP5 and section 12.3.2.3 of the CDP.
- The area would benefit from the inclusion of additional community infrastructure as was envisaged in previous permissions.

9.1.9. PA Comment on Transport and Access

- The site is not within a central and/or accessible location as referenced in the Apartments Guidelines. It is a suburban location which is heavily dependent on car transport.
- The proposal has a shortfall of 88 no. car-parking spaces and reduced standards are not appropriate. The report concurs with the Transport Section concerns on this matter and that haphazard parking would affect safety and amenity.
- Additional cycle and motorcycle parking is required for a BTR development.

9.1.10. PA Departmental Reports

- Drainage: The applicant has submitted a detailed report that generally satisfies the requirements of the planning design stage, and the conclusions of the Flood Risk Assessment are accepted. Conditions are recommended, including the submission of construction stage details and an updated Flood Risk Assessment.
- Housing: The Council's priority is to purchase units for Part V and the Department's advice is that this is feasible in BTR developments. Part V arrangements should be agreed by condition.
- Environment (Waste): The report expresses satisfaction with proposals subject to agreement of details by condition.
- Transport: The report recommends refusal based on this suburban location which does not have adequate public transport services, is heavily car-dependent, and is not suitable for BTR development or reduced car-parking standards. It outlines a range of other concerns (as below) and associated conditions to be applied in the event of a grant of permission:
 - Lack of connectivity to cycle network.
 - The Road Safety Audit has not been completed by independent consultants.
 - The cycle parking quality standards and accessibility are not in accordance with CDP requirements.
 - Residential visitor parking, creche car-parking, and drop-off/servicing arrangements are unacceptable.
 - The underground car park is poorly designed.

- Provision shall be made for Electric Vehicle charging spaces.
- Parks Department: The report expresses satisfaction with proposals subject to agreement of details by condition.
- Public Lighting: Proposals are generally acceptable subject to alterations to prevent obtrusive light to houses (from new courtyard on western side of site) and to resolve tree conflicts which prevent light reaching the desired surface.
- Building Control: The existing open space area shall be upgraded under license from the Council and as per the DLRCC letter of consent.
- Environmental Health: The proposal is acceptable subject to conditions regarding construction management and noise mitigation.

9.1.11. PA Conclusion

The development of the site would be welcomed but the previously approved schemes are considered significantly better in terms of sustainable planning and development. The proposal is not consistent with a number of objectives of the CDP, the NPF, the RSES, and Section 28 Guidelines.

9.1.12. PA Recommendation

The Planning Authority recommends that planning permission be refused for the following reasons:

1. *It is considered that the proposed scheme would seriously impact on existing and future residential amenities and depreciate the value of those properties, through its excessive size, scale, and height and moreover would appear unduly visually prominent, overbearing and out of context, when viewed from the surrounding area. In addition, the scheme would give rise to an unacceptable level of overlooking of the surrounding properties in particular to the north. Furthermore, the proposed scheme would result in an unsatisfactory layout inhibiting permeability and legibility through the area; contrary to Section 12.3.1.1 – Design Criteria, 8.1.2.3 Policy UD6: Appendix 5 – Building Height Strategy, Section 12.3.1 – Quality Design, and Section 12.3.5 – Apartment Development of the Dun Laoghaire-Rathdown County Development Plan 2022-2028.*

2. *The proposed scheme fails to demonstrate there is sufficient supporting community infrastructure to cater for the predicted future demand from the scheme with regards local community facilities. Moreover, no social, commercial or retail infrastructure for the wider community is proposed within the scheme itself, contrary to Section 4.2.1.4 Policy Objective PHP5: Community Facilities, Section 4.2.1.6 Policy Objective PHP7: Schools, and Section 12.3.4 – Residential Development – General Requirements of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and as a result the proposed development is considered to be contrary to the proper planning and sustainable development of the area.*

The recommendation also suggests 56 no. conditions for the event that the Board is minded to grant permission. Notable conditions can be summarised as follows:

2. The scheme shall be amended as follows:

- a) Reduction to 6 storeys
- b) Block E shall be omitted and replaced with open space
- c) Resident facilities/amenities in Block C shall be relocated to Block H
- d) The vacated space (as per (c)) shall be repurposed for retail/community use.

3. The attenuation tank area shall be maintained as accessible open space.

11-25. Drainage design and management details shall be agreed with the Planning Authority.

27-30. Waste management and construction management details to be agreed with the Planning Authority.

32-43. Transport measures shall be agreed with the Planning Authority, including road safety, design measures, and vehicle/cycle parking proposals.

44-54. Landscaping and tree protection measures shall be implemented and agreed with the Planning Authority.

55. A financial contribution shall be paid in respect of public infrastructure and facilities in accordance with Section 48 of the Act of 2000 (as amended).

56. A financial contribution shall be paid in respect of the extension of the Luas Line B from the Sandyford Depot to Cherrywood (Luas Line B1) in accordance with the Supplementary Development Contribution Scheme adopted by DLRCC.

10.0 Prescribed Bodies

10.1. Irish Water

Water connection: Feasible without infrastructure upgrade by Irish Water.

Wastewater connection: Feasible subject to infrastructure upgrades, namely a storage tank (500m³) to mitigate storm water impacts.

Design: The applicant is entirely responsible for the design and construction of any infrastructure within the site boundary. A statement of Design Acceptance was issued by Irish Water on 2nd August 2022.

Recommendation: Any grant of permission should include conditions requiring connection agreement prior to commencement of works/connection; protection of IW assets; and compliance with IW standards, codes, and practices.

11.0 Assessment

11.1. I have considered all the documentation and drawings on file, the DLRCC Chief Executive's Report, the submissions from prescribed bodies and third-party submissions, the statutory Development Plan, as well as relevant national policy, regional policy and section 28 guidelines. Having regard to the foregoing, I consider that the main planning issues arising from the proposed development can be addressed under the following headings:

- Preliminary Matters
- Principle of Development
- Building Height and Quantum of Development
- The Standard of Residential Amenity Proposed
- Impacts on Surrounding Properties
- Daylight and Sunlight

- Design, Layout and Visual Amenity
- Community Facilities and Public Open Space
- Traffic and Transport
- Drainage, Flood Risk and Water Services
- Ecology
- Other Matters
- Material Contravention
- The Local Authority recommendation.

11.2. Preliminary Matters

- 11.2.1. Several procedural matters have been raised by the observers regarding the nature and validity of the application. I propose to deal with these matters at the outset of my assessment.

Judicial Review

- 11.2.2. Several parties have raised fundamental concerns regarding the submission of this application while there is an ongoing Judicial Review challenge to the Board's decision to grant permission for the previous application (ABP Ref. No. 309828-21). I acknowledge the similarities between the two applications, although it is also clear that amendments have been made in the current application to provide significant differentiation, including:

- Removal of the upper floor (7 no. units) of Block F.
- Revised elevational treatment to the east of Block J, including additional cladding and removal of balconies.
- Measures have been incorporated to improve sunlight/daylight standards for apartments, as well as compensatory measures.
- 74 no. balconies have been removed.
- Alterations have been made to the basement level, including car/bicycle parking, storage, and circulation arrangements.

- 11.2.3. Having regard to the above, I am satisfied that the current application is clearly not the same as the previous application. I do not consider that the ongoing Judicial Review proceedings present any impediment to the Board determining the current application.

Planning History

- 11.2.4. Several parties have offered opinions on previous applications/permissions on the site, including a general preference by the third-party observers that development should be consistent with that granted under P.A. reg. ref. D10A/0440 (as amended by reg. ref. D16A/0511). The Planning Authority has also highlighted some advantages of this previously permitted scheme. Conversely, submissions have highlighted concerns about the Board's decision to grant the most recent application (currently under Judicial Review) and contend that this should not be used as a 'yardstick' for what may be permissible on the site.
- 11.2.5. Compared to previous applications the current application is being considered under a different policy context, including the new County Development Plan 2022-2028. And while I have acknowledged the planning history of the site, I confirm that I am not placing any positive presumption on the application based on the Board's previous decision. The current application will be assessed '*de novo*' and on its own merits.

Unauthorised Development

- 11.2.6. It has been alleged by observers that the application site constitutes unauthorised development. The basis for this contention is that the previous permission (P.A. reg. ref. D10A/0440, as amended by reg. ref. D16A/0511) has expired and has not been completed in accordance with the terms and conditions of that permission. I acknowledge that the Planning Authority has decided to refuse the application for the extension of duration of the parent permission (P.A. reg. ref. D10A/0440). However, it has been stated that that decision is the subject of a legal challenge.
- 11.2.7. While it would be a matter for the Courts to ultimately determine any such challenge, I would highlight the need to distinguish between, on the one hand, an incomplete development which omits or fails to comply with a specific and important requirement of otherwise completed phases of the development, and on the other hand, an

incomplete development which simply does not implement all phases of the development within the lifetime of the permission. Generally speaking, the former could be considered a significant omission which constitutes unauthorised development, while the latter case could be simply considered an omitted phase of a withered permission which has no significant impact on earlier completed phases.

- 11.2.8. I acknowledge section 40(1)(b) of the Planning and Development Act 2000, as amended ('the Act of 2000'), which confirms that the incomplete element of a permission shall cease to have effect on the expiration of the appropriate period. However, section 40(2)(a)(iv) outlines that, '*in the case of a development comprising a number of buildings of which only some have been completed*', subsection (1) shall not apply '*in relation to the provision of roads, services and open spaces included in the relevant permission and which are necessary for or ancillary or incidental to the completed buildings*'. Section 40(2)(b)(ii) also outlines that subsection (1) shall not affect '*the obligation of any person to comply with any condition attached to the relevant permission whereby something is required either to be done or not to be done*'.
- 11.2.9. Related to the above issues, Part VIII of the Act of 2000 gives the Planning Authority enforcement powers in relation to unauthorised development, including non-compliance with the conditions of any permission. And notwithstanding the potential expiration of any permission, section 163 of the Act outlines that permission shall not be required in respect of any development required to be carried out by the developer on foot of an 'enforcement notice' (section 154) or an injunction (section 160).
- 11.2.10. Ultimately, I am of the view that any question of unauthorised development is not a matter for the Board to determine or enforce in the context of this application. These matters are primarily the responsibility of the Planning Authority and the Courts, and I am not aware that the site has been deemed part of an unauthorised development.
- 11.2.11. Based on the apparent legal challenge as previously mentioned, the Planning Authority decision to refuse the extension of duration of the parent permission may or may not be upheld. In any case, I am satisfied that the provisions of sections 40 and 163 of the Act of 2000 allow for the completion of any outstanding communal

services/facilities that are required to comply with the terms and conditions of the original permission and which the current application may rely on.

- 11.2.12. I acknowledge the obvious links between the current application and the previous applications, and the suitability of communal services/facilities will be considered throughout this report. However, notwithstanding any previous permission which the Courts may or may not deem to have expired, I would have no objection to the consideration of the current application on its merits. Some related issues on the matter of Environmental Impact Assessment (EIA) are discussed further in section 12 of this report.

Past failures to comply

- 11.2.13. Some observers have submitted that there is a real and substantial risk that the developer would not complete any permission granted and that the Board should refuse permission in accordance with Section 35(5) of the Act of 2000. This contention is largely based on the developer's failure to complete the previous permissions and related allegations of unauthorised development.
- 11.2.14. These matters have already been addressed in the previous paragraphs of my report. Having regard to the information available, I am not of the opinion that there is real and substantial risk that the development would not be completed in accordance with any permission and/or conditions, if granted. Accordingly, I do not consider that permission should be refused based on past failures to comply in accordance with the provisions of section 35 of the Act of 2000.

The Build-To-Rent (BTR) Model

- 11.2.15. Third-party observations have highlighted that the BTR model is due to be abolished and contend that there would be no justification to permit additional developments of this nature.
- 11.2.16. I acknowledge that the Section 28 Guidelines 'Design Standards for New Apartments' were amended on the 22nd of December 2022. I also note the contents of the associated Circular Letter NRUP 07/2022. The amendment removes Specific Planning Policy Requirements (SPPRs) 7 and 8, the effect being that BTR is no longer a distinct class of development for planning purposes, and that planning standards for BTR development are required to be the same as those for all other

generally permissible apartment types. Section 5.0 of the Guidelines continues to recognise BTR development as a valid form of rental accommodation and sets out typical characteristics, but with no allowable divergence from the minimum standards for apartments generally, which are set out in Sections 3.0 and Section 4.0 of the Guidelines. This ensures that apartment developments, irrespective of the intended end user, will be designed to the same minimum standards.

- 11.2.17. However, the Circular also outlines transitional arrangements which outline that any outstanding SHD applications (such as the current 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 2020 version of the Apartment Guidelines, which includes SPPRs 7 and 8. Therefore, the current application will be assessed accordingly.

Strategic Housing Development (SHD) Classification

- 11.2.18. Some observers have submitted that this is a commercial BTR development which does not qualify as SHD. They also outline an opinion that the application is an attempt to enhance property value rather than to provide additional housing.
- 11.2.19. Regardless of the BTR nature of the proposal, I am satisfied that the application involves the provision of more than 100 housing units on land zoned for residential use including BTR (see section 11.3 below). The proposal has a residential floor area of c. 40,475m², while the childcare facility is c. 514.9m² and the resident amenity space is c. 1,455.7m². I consider that the resident amenity spaces are ancillary to the residential use and only the childcare facility should be considered commercial use. However, even if the childcare and resident amenity space is considered non-residential (total of 1,970.6m²), it would still be significantly less than 4,500m² and/or 15% of the total gross floor area. Accordingly, I consider that the proposal qualifies as Strategic Housing Development in accordance with the definition set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Public participation, SPPRs, and the SHD process

- 11.2.20. Observers have questioned the legality of the process. They contend there is an absence of public participation with local residents and DLRCC, including the lack of

availability of the CE Report for comment and associated concerns about Article 6(4) of the EIA Directive. Concerns are also raised about the principle of SPPRs and the impact of the material contravention of Development Plans. I would state that these are primarily legislative issues which need not concern the Board for the purpose of this decision. The application has complied with the statutory requirements for public participation and pre-application consultation. Furthermore, I am satisfied that the SPPRs and material contravention procedures continue to apply in legislation. This applies irrespective of the adoption of a new Development Plan which has had regard to the SPPRs. The question of material contravention is discussed further in section 11.14 below.

11.2.21. Some observers have also questioned the principle of SPPRs with regard to environmental assessment. They contend that, in the absence of a new Strategic Environmental Assessment (SEA), they unjustifiably curtail the application of the Development Plan. However, I consider that the EIA Directive must be interpreted as not precluding national legislation which requires competent authorities, when deciding whether or not to grant development consent for a project, to act in accordance with SPPRs, where possible, and which have been subject to an environmental assessment under SEA Directive. Accordingly, I have no objection to the application of SPPRs in terms of environmental effects and this is assessed further in section 12 of this report.

11.3. Principle of Development

Core Strategy

11.3.1. Third-party observers have raised concerns about an excess of zoned land and residential development in the area. They highlight the availability of redundant building stock; OPR concerns about an excess of zoned land; and the need for an over-arching accommodation strategy for SHD proposals in the area.

11.3.2. I am satisfied that these matters have been addressed through the Core Strategy as incorporated within the recently adopted Development Plan. The Core Strategy outlines that the amount of land zoned is consistent with national and regional population targets as outlined in the NPF and RSES. Furthermore, the OPR has welcomed the adoption of the Development Plan, with the exception of those matters

included in a Draft Direction recommendation to the Minister (which do not relate to an excess of zoned land).

11.3.3. The Core Strategy has identified several 'new residential communities' and 'strategic employment growth areas' in the surrounding area. In figure 2.11 'Compact Growth' of the CDP, the application site is specifically identified as one of the 'Residential sites relating to Dublin City and Suburbs' and Policy Objective CS11 aims to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.

11.3.4. Having regard to the forgoing, I am satisfied that the development of the site would be consistent with national, regional, and local housing policy, and would not contribute to an excess of housing development in this area.

Residential Zoning

11.3.5. The majority of the application site is zoned '*Objective A - To provide residential development and improve residential amenity while protecting the existing residential amenities*'. 'Residential – Build to Rent' use is 'open to consideration' in this zone in accordance with Table 13.1.2 of the Development Plan. Uses shown as 'Open for Consideration' are uses which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area. The proposal incorporates a childcare facility which is 'permitted in principle' in the 'A' zone, subject to the use having no adverse effects on the 'A' zoning objective.

11.3.6. Third-party observers contend that the BTR development would not be compatible with the overall policies and objectives for the zone and would be contrary to the provisions of section 4.3.2 and Objective PHP28 of the CDP regarding suitable locations for BTR development. They contend that the proposal would materially contravene both the zoning objective and Objective PHP28. The Board should note that the Planning Authority does not support this view.

11.3.7. I note that section 4.3.2 of the CDP facilitates BTR accommodation at locations within a 10-minute walking time of high frequency public transport routes, subject to avoiding a proliferation of BTR accommodation in any one area. The applicant has outlined that the site is within c. 900m of the Glencairn Luas Stop, while the

Apartments Guidelines estimate that a 10-minute walk covers a distance of c. 800-1000m. Therefore, I am satisfied that the site is within a 10-minute walking time of the Luas stop. I acknowledge that third parties contend that the entirety of the site is not within the 10-minute walking time. However, I consider that some flexibility should be applied to this standard given the inherent variations in walking speeds. The Development Plan does not specify that the entire site must be located within the 10-minute walking time, and I am satisfied that the site location is consistent with the specified guidance. Furthermore, I note that the Luas stop operates at a frequency of 8 minutes during peak hours and complies with the description of 'high frequency' services as outlined in the Apartments Guidelines.

- 11.3.8. In relation to the proliferation of BTR developments, the application outlines that there are no other BTR schemes within approximately 1km of the application site. On review of the planning history of the area, I note that a BTR development of 112 units has been permitted (10th February 2022) on a site located c. 600m northeast of the application site (ABP Ref. No. 311669-21). However, I would agree that the surrounding area generally contains a wide variety of standard tenure housing, and the proposed development would not result in a proliferation of BTR developments.
- 11.3.9. In conclusion, I am satisfied that the proposed development is consistent with the locational guidance for BTR development as outlined in the Development Plan, as has also been confirmed by the Planning Authority. Accordingly, I am satisfied that, in principle, the proposed development would be consistent with the 'A' zoning objective for the site and the guidance and objectives for BTR development as outlined in section 4.3.2 and PHP28 of the CDP. Of course, the zoning objective is qualified by the need for both the residential and childcare element to comply with other standard criteria and proper planning. These issues will be assessed further throughout this report.

Open Space Zoning

- 11.3.10. The southern margin of the main site portion is zoned '*Objective F - To preserve and provide for open space with ancillary active recreational amenities*'. These lands are in the ownership of DLRCC. It is proposed to upgrade this open space through the provision of additional pedestrian routes and landscaping. I am satisfied that these works would be consistent with the applicable 'F' zoning objective.

- 11.3.11. The smaller site portion to the south of the Griannan Fidh estate is also zoned 'Objective F' and in the ownership of DLRCC. An underground wastewater storage tank, above ground detention area, reinstated landscaping, and a small above ground kiosk are proposed at this location. It is stated that the applicant has been requested by Irish Water to provide the tank at its own expense in order to address a concern about the capacity of the foul network and the risk of flooding downstream from the Aiken's Village area generally caused by stormwater entering the foul system.
- 11.3.12. On the basis that the tank is required by Irish Water, the applicant contends that it is a 'public service' which, as per the CDP definition, includes '*all service installations necessarily required by electricity, gas, telephone, radio, telecommunications, television, data transmission, water, drainage and other statutory undertakers*'. I am satisfied that the proposed works come within the description of 'public services', which are 'open to consideration' within zoning objective 'F'.
- 11.3.13. All the works proposed to provide the storage tank are underground with the exception of a small kiosk for maintenance and management purposes. On completion of the infrastructure works, the landscape is to be reinstated and reverted to use as public open space. I note that the Planning Authority refers to concerns as to whether these works might result in a diminution of recreational value which would be inconsistent with the 'F' zoning objective, although it does not state any conclusion on this matter. However, these concerns would appear to relate to the third-party submissions as the DLRCC Parks Department Report expresses satisfaction with the proposals subject to conditions.
- 11.3.14. In my opinion, the works are relatively minor in relation to the overall scale of the existing open space. The above ground works will have only limited visual or functional impacts and would be suitably screened by existing and proposed landscaping. Accordingly, I do not consider that the works would detract from the character or functionality of the overall open space area, and I am satisfied that the works would be compatible with the 'F' zoning objective and other relevant CDP objectives to provide and protect open space / green infrastructure.

Conclusion

11.3.15. Having regard to the foregoing, I am satisfied that the proposed development accords with the Core Strategy and land use objectives for the area as detailed in the County Development Plan. It is my view that the principle of BTR residential development at this location is acceptable subject to the further assessment of normal parameters, including those referenced/qualified in the 'A' and 'F' zoning objectives. I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of the land and permission could be granted subject to the further considerations and assessments outlined in the following sections.

11.4. **Building Height and Quantum of Development**

11.4.1. The development has a height of up to 8 storeys (over basement) and contains 438 no. apartments at a density of 154 units per hectare (residential site only). I acknowledge that this would exceed the density levels of existing development and previous permissions.

Density / Height Policy

11.4.2. In terms of national policy and guidance, I note that the 2009 Guidelines on 'Sustainable Residential Development in Urban Areas' recommend that increased densities should be promoted in 'public transport corridors'. This includes locations within 500 metres walking distance of a bus stop, or within 1km of a light rail stop/rail station. It also states that the capacity of public transport (e.g. no. of train services during peak hours) should be taken into consideration. In general, minimum net densities of 50 dwellings per hectare should be applied and specified in LAPs, with the highest densities being located at rail stations / bus stops.

11.4.3. Following on from the above, Chapter 3 of the *Building Height Guidelines* outlines a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the

Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

11.4.4. Section 2.4 of the Apartments Guidelines states that 'Intermediate Urban Locations' are generally suitable for smaller-scale higher density development. Such areas are stated to include (not exhaustively):

- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations.
- Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided.
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services.

11.4.5. In terms of local policy, the Development Plan (including Policy PHP18) generally supports proposals to optimise density on suitable sites and subject to suitable design. It does not prescribe a maximum density standard for the area/site but supports minimum densities of 50 units per hectare in central/accessible locations and 35 units per hectare throughout the county.

11.4.6. Appendix 5 contains the Building Height Strategy for the County. Policy Objective BHS 1 supports increased height / taller buildings in suitable areas well served by public transport links (i.e., 1000m / 10-min walk of LUAS stop), subject to further assessment including table 5.1 of the strategy. Policy Objective BHS 3 promotes general height of 3-4 storeys in residual suburban areas, while allowing the consideration for increased height/taller buildings subject to further assessment including table 5.1 of the strategy.

Area Classification

11.4.7. In assessing the height and quantum of development proposed it is important to first establish the nature/classification of the subject area in the context of national/local

policy. The third-party submissions generally contend that the site is within a suburban area where high density housing is not appropriate and that a height limit of 3-4 stories should apply consistent with existing development and CDP policy.

- 11.4.8. The DLRCC CE Report (section 8.11) outlines that this is a suburban location which is heavily dependent on car transport, although it should be noted that section 8.1 of the CE Report accepts the suitability of the site in terms of proximity to public transport and compliance with Policy PHP28. It applies building height policy BHS 3 (i.e. for residual suburban areas) and contends that the site is unsuitable for more than 6 storeys.
- 11.4.9. Having regard to the aforementioned policy provisions, it is clear that national and local policy/guidelines encourage increased height/density in public transport corridors. In this regard, I have already outlined my satisfaction that the site is within 1km/10-minute walking distance of the Glencairn Luas stop which offers high frequency rail services.
- 11.4.10. I also note that significant concerns have been raised about the capacity of the Luas service. These concerns are largely based on personal experience, and I acknowledge that this can be a difficult standard to definitively quantify. However, I would highlight that the Sustainable Residential Development Guidelines refer to capacity in the context of the number of trains during peak hours rather than a detailed capacity by person, while the Apartment Guidelines specifically classify the Luas as a '*high capacity urban public transport stop*'. At local policy level, Policy BHS 1 also classifies sites within 1000 metre/10-minute walk band of a LUAS stop as being '*well served by public transport links*'.
- 11.4.11. In addition to these provisions the applicant has submitted a Traffic and Transport Assessment (TTA) which highlights the proximity of the site to Luas and bus services and includes a Public Transport Capacity Assessment. The assessment estimates the population associated with the proposed development (1,444 persons) and other committed developments (606 persons) and the numbers likely to use public transport based on the established modal split (CSO, 2016). This results in an estimated total future demand of 314 persons (Train, DART, or Luas) and 110 persons (Bus, Minibus, or Coach).

- 11.4.12. Surveys of three local bus stops (9th May 2022) found that there was spare capacity of 254 seats across the AM peak period to easily accommodate the projected demand of 110 passengers. A survey of the Luas Glecairn stop (10th May 2022) also found that there was approximately 1500 spare spaces across the AM peak period to easily accommodate the projected demand of 314 passengers.
- 11.4.13. I note the concerns of third parties and the Planning Authority regarding public transport capacity. In summary, the submissions refer to a lack of frequency and/or capacity in bus/Luas services; that the applicant's analysis is based on low usage of public transport; and that the cumulative impact of other developments will have knock on effects on the capacity of the wider Luas green line network.
- 11.4.14. I acknowledge that the bus services in the area have limited frequency and capacity. However, as previously outlined, I consider that national and local policy recognises the Luas line as being a public transport service with high capacity and high frequency. Furthermore, I am satisfied that the applicant's assessment reasonably demonstrates spare bus/Luas capacity based on documented surveys. Peak hour pressures on public transport services such as the Luas are common, and the National Transport Authority (NTA) is continually working on the capacity of these services to meet changing demands. Although Transport Infrastructure Ireland (TII) has not been consulted on this application, I note that it did not submit any objections on the previous application.
- 11.4.15. In conclusion, I am satisfied that the site is within the 1km/10-minute walking distance of the Luas Glencairn stop and that this constitutes a high frequency and high-capacity public transport service. Accordingly, I consider that this is an accessible intermediate urban location in accordance with the aforementioned provisions of the Apartments Guidelines, the Sustainable Residential Development Guidelines, the Building Height Guidelines, and the County Development Plan. And specifically in relation to CDP building height policy, I consider that the location is covered by BHS1 which refers to '*areas well served by public transport links*' and does not place any specific limit on building height. Therefore, it is not a 'residual suburban area' (i.e. covered by BHS 3), which refers to areas not covered by other guidance/policy set out in the plan.

Conclusion

11.4.16. Having regard to the foregoing, I am of the opinion that the site is within an accessible intermediate urban location which is suitable for increased building height and density in accordance with relevant national and local planning policy which seeks to promote compact development in close proximity to public transport corridors. In particular, I am satisfied that CDP policy does not place any specific maximum limit of building height or density for this site. Of course, the proposed height and density requires further assessment of its suitability, with particular regard to design and layout and its impact on the surrounding environment, infrastructural capacity, and neighbouring properties. These issues will be addressed in the following sections of my report, based on the standards which apply to accessible intermediate urban locations.

11.5. The Standard of Residential Amenity Proposed

11.5.1. The standard of residential development is considered in this section, particularly with regard to the quantitative and qualitative standards outlined in the Development Plan and the 2020 Apartments Guidelines.

Housing Mix

11.5.2. The development proposes a mix of apartments including 154 no. 1-bed units (35%) and 284 no. 2-bed units (65%). Table 12.1 of the Development Plan sets out apartment mix requirements, including those which apply to a 'new residential community' and an 'existing built up area'. I do not consider that the subject site is within a 'new residential community' as per Figure 2.9 of the CDP and, accordingly, the standards for 'existing built up areas' would apply (if Table 12.1 was applicable). This would 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. A minimum of 20% 3+ bedroom units would also apply.

11.5.3. However, notwithstanding that section 12.3.3 of the CDP aimed to apply the apartment mix requirements of Table 12.1 to BTR developments, I note that this requirement has not come into effect as a result of the Ministerial Direction (28th

September 2022) relating to the adoption of the CDP. Accordingly, the CDP does not include a specific mix requirement for BTR developments.

- 11.5.4. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. The Apartments Guidelines also highlight the need for greater flexibility on apartment mix, including SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. I am satisfied that the proposed development has been described and proposed to qualify as BTR development in accordance with the requirements of SPPR 7(a) of the Apartments Guidelines.
- 11.5.5. Concerns about the absence of 3+ bed units have been raised in the third-party submissions and the Planning Authority states a preference for the inclusion of same. However, I note that it does include a large majority (65%) of 2-bed units (all of which are the larger 4-person type). I would also highlight a high concentration of larger units in the wider surrounding area, particularly the more mature developments. And while more recent development has introduced a higher proportion of smaller units, I am satisfied that the proposed development would continue to improve the mix of units in the area, and I would have no objections in this regard.
- 11.5.6. The application confirms that the site was purchased between 1st September 2015 and 31st July 2021 and that a Part V requirement of 10% applies in accordance with Section 96(3)(j) of the Act of 2000. It includes a proposal to grant the lease of 43 no. Part V units (Block J) and it has been confirmed that Part V discussions have been held with the local authority. The DLRCC submission outlines a preference for the purchase of units in accordance with national policy and refers to Department of Housing advice that Part V units can be acquired notwithstanding the long-term rental requirements outlined in SPPR7(a) of the Apartments Guidelines. I note that third-party submissions have highlighted a perceived conflict in this regard, but I am satisfied that section 5.15 of the Apartments Guidelines clarifies that the transfer of units is achievable in BTR developments.

11.5.7. I would concur with third-party concerns regarding the proposed concentration of Part V units in Block J. I would agree that a more varied dispersal of units would be desirable, and I note that the Chief Executive's report indicates that Part V requirements should be subject to agreement by a condition of any permission, including potential changes to the mix of units. Similarly, regarding the observers' concerns about the affordability of the Part V units, I am satisfied that this matter can be agreed with the planning authority by condition. Accordingly, I have no objections in this regard.

Floor Areas and Dimensions

11.5.8. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. The application includes a Housing Quality Assessment (HQA) which outlines that all proposed units exceed the minimum overall apartment floor areas as set out in SPPR 3 of the Apartment Guidelines. Furthermore, with regard to 'Safeguarding Higher Standards', the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. SPPR 8 (iv) outlines that this requirement does not apply to BTR development. Notwithstanding this, the HQA outlines that almost all units would comfortably exceed the 10% requirement, thereby indicating a generous floor space for BTR units.

11.5.9. I have also considered the other internal floor space requirements of Appendix 1 of the Apartment Guidelines, including the areas/dimensions for living/kitchen/dining areas, bedrooms, and storage. Having reviewed the applicant's HQA and the floor plans submitted, I am satisfied that the room widths and areas are satisfactorily provided in accordance with the Guidelines. Again, notwithstanding the flexibility allowable for reduced storage areas under SPPR8(ii), I note that all units would comply with and/or exceed the minimum storage requirements of the Guidelines.

Aspect

11.5.10. The Development Plan requirements are generally consistent with SPPR 4 of the Apartment Guidelines, which requires a minimum of 33% dual aspect units in more central and accessible urban locations, and at least 50% in suburban or intermediate locations. However, the CDP classifies the entire County as a suburban or

intermediate location and therefore applies the 50% requirement. I have previously outlined my opinion that this is an accessible intermediate urban location in the context of proximity to the Luas stop. Therefore, consistent with section 3.17 of the Guidelines I am satisfied that the 33% requirement could be applied as it is an intermediate location close to high quality public transport.

- 11.5.11. The applicant's HQA outlines that the proposed development includes 229 no. dual-aspect units (or 52%). I note that third-party submissions have objected to the classification of some units as 'dual aspect' based on usage of 'bay window' designs and contend that this materially contravenes the 50% requirement. I note that section 12.3.5.1 of the CDP outlines guidance of the classification of dual aspect units, which accepts corner windows but does not accept windows, indents or kinks on single elevations. Having reviewed the proposed designs, I note that a range of dual aspect apartment types are proposed, including 'corner', 'through', and 'projecting' types. However, in all cases I am satisfied that the designs achieve substantive aspects in at least two directions, which therefore complies with the 50% requirement. In the event that the Board does not accept the 'projecting' apartment types as being dual aspect, I calculate that 34 no. units would have to be discounted, resulting in 195 no. dual aspect units. This would be 44.5% of the proposed units and I am satisfied that this could also be accepted as it would exceed the 33% requirement for accessible locations (including intermediate locations as per s. 3.17 of the Guidelines).
- 11.5.12. The Planning Authority has not raised any objection in relation to dual aspect standards or ratios. None of the single-aspect units are north-facing, which is consistent with the Guidelines. Accordingly, I consider that the dual/single aspect requirements of the Guidelines would be satisfactorily addressed.

Ceiling Heights

- 11.5.13. The CDP and the Apartments Guidelines (SPPR 5) outline that ceiling heights for ground floor apartments should be a minimum of 2.7m, while a minimum of 2.4m applies at upper floor levels. The application contends that the proposed scheme complies with these requirements. However, it should be noted that the 'ground floor' level of the proposed development largely accommodates the basement level, while the 'first floor' level is effectively at 'ground level' in many cases. Where apartments are proposed at the lower ground/basement level, the ceiling heights do comply with

the 2.7m height requirement. The upper ground/first floor level apartments have a height of 2.4m and I feel that these units should also comply with the 2.7m standard. However, I am satisfied that this is a minor issue which could be easily resolved through a condition of any permission and would not result in any other significant effects.

Lift and Stair Cores

- 11.5.14. The Development Plan permits up to 12 apartments per floor per individual stair/lift core, which is consistent with SPPR 6 of the Apartments Guidelines. The proposed development complies with this requirement, notwithstanding that SPPR 8 (v) states that this maximum limit shall not apply to BTR developments.

Private Amenity Space

- 11.5.15. Appendix 1 of the Guidelines also sets out the normal minimum requirements for the provision of private open space, which is consistent with Development Plan standards. The Guidelines state that such space should be provided in the form of gardens or patios/terraces for ground floor apartments (with appropriate privacy and security) and balconies at upper levels. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking. Balconies should adjoin and have a functional relationship with the main living areas of the apartment and have a minimum depth of 1.5 metres.
- 11.5.16. Notwithstanding the above, SPPR 8(ii) of the Guidelines states that flexibility shall apply in relation to the provision of a proportion of the private amenity space associated with individual units on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The CDP also states that a reduction in the area of private open space serving each unit will only be considered in instances where at least an additional 10% high quality, useable, communal and/or additional compensatory communal support facilities are provided.
- 11.5.17. Private amenity space has been omitted from 74 no. units (c.17%) in an effort to improve daylight / sunlight standards and elevational treatment. The remaining majority of units (83%) comply with the required open space standards. The Planning Authority has not raised any significant objection in this regard, but some

third-party submissions contend that the complete removal of private amenity space for individual units would materially contravene the CDP. In my opinion, a reduction in private open space should not preclude its omission in some cases and therefore this would not materially contravene the CDP. Accordingly, I am satisfied that the private amenity space proposals can be accepted subject to the provision of alternative, compensatory communal support facilities and amenities. These matters will be addressed in the following paragraphs.

Communal Open Space, Facilities, and Amenities

- 11.5.18. Regarding the provision of communal open space, the Development Plan standards are consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development requires 2,758m² of communal open space. The proposed courtyards contain a total of 4,579m², which represents 1.66 times the minimum requirement and a high standard of communal open space provision. The spaces are centrally located and easily accessible and will be landscaped to a high standard, including play areas for younger children (age 0-6) in each courtyard and informal play spaces for older children throughout the scheme. I am satisfied that this play provision complies with the recommendations of the CDP and the Apartments Guidelines. Therefore, in addition to significantly exceeding the minimum communal open space requirements, I am satisfied that the proposals provide suitable compensation for the omission of 74 no. balconies (a total of 440m²).
- 11.5.19. Section 5.5 of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as 'resident support facilities' and 'resident services and amenities'.
- 11.5.20. The proposed scheme includes communal facilities at ground floor and first floor levels of Blocks C (918.7m²) and G (537m²). The resident support facilities include an on-site management team, reception, waste management facilities, postal deliveries/stores, and other management facilities as outlined in the Site Specific and Operational Management Plan report. Resident services and amenities include a

lounge, shared living space, games room, cinema, gyms, meeting rooms, co-working spaces, and yoga studios. The Apartments Guidelines do not specify a particular nature or extent of such facilities to be provided and the Planning Authority has deemed the proposals to be acceptable. Similarly, I consider that the nature and extent of the proposals are suitable to serve the proposed development and that they would provide compensation for the lack of private amenity space for 74 no. apartments.

- 11.5.21. In conclusion on this matter, I am satisfied that the proposed development contains sufficient provision for communal open space, communal facilities, and communal amenities. Furthermore, I consider that the level of such provision exceeds minimum/expected standards to such an extent that it would appropriately compensate for the lack of private amenity space in 74 no. bedrooms. Therefore, as well as satisfactory communal facilities, I am satisfied that private amenity space proposals are acceptable in accordance with the flexibility offered by SPPR 8(ii) of the Apartments Guidelines and section 12.3.6 of the Development Plan.

Access, Circulation, & Security

- 11.5.22. I am satisfied that the access and services within the proposed development have been appropriately designed to ensure universal access for people of all ages and abilities. The proposed apartments generally overlook the public realm or communal areas to provide for natural/passive surveillance of streets, open spaces, and play areas. Entrance points would be clearly distinguished and overlooked, including the ground/first floor apartments and access to internal and external communal areas.

Separation Distances

- 11.5.23. Section 12.3.5.2 of the Development Plan outlines that such developments should provide for acceptable separation distances between blocks. It states that a minimum clearance distance of circa 22 metres, in general, is required between opposing windows in apartments up to three storeys, while taller blocks may require a greater separation distance 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.

- 11.5.24. Consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines. The Sustainable Residential Development Guidelines (s. 7.4) also advise that such rules regarding separation distances should be applied flexibly and that shorter separation distances can be achieved through appropriate design.
- 11.5.25. The proposed scheme does include instances where the separation distances between blocks are less than 22 metres. This includes the distances between blocks A/B and C/D (13.1m – 15.3m); blocks C and D (9.7m); blocks G/F and H/J (13.4m – 16.1m); blocks H and J (11.8m); and around block E (15.1m – 18.8m).
- 11.5.26. In relation to the south-facing elements of Blocks A, B, G, and F with the north-facing elements of Blocks C, D, H, and J, I note that the application incorporates design measures to protect privacy for occupants. Opposing living rooms windows will be fitted with obscured glazing to prevent overlooking. I consider this to be an acceptable solution given that the living rooms are otherwise served by larger glazed elements. Opposing bedrooms windows will remain but they would be separated by a minimum distance of 15 metres, which I consider to be acceptable given that they would have a lesser separation requirement compared to living rooms.
- 11.5.27. Although the distance between blocks C to D and blocks H to J on the lower floors is 9.7m and 11.8m respectively, it should be noted that opposing apartment windows are on the upper floors which are acceptably setback to at least 29 metres (apart from one small window at 1st floor level of Block H which would no result in significant effects). The eastern elevation of Block E contains obscured glazing to protect the privacy of Block H. The western elevation of Block E has an angled relationship with Block D where there are no opposing living room windows within 22 metres and the distance between bedroom windows (18.79m) occurs only at a difficult angle with no significant overlooking impacts.
- 11.5.28. While this may not be a 'central' location, I consider that it is nonetheless a 'built-up' area where reduced separation distances can be allowed in accordance with the flexibility of the Development Plan. I have considered the layout, size, and design of

the proposed development, as well as its orientation and location. Having regard to the foregoing, I am satisfied that the proposed separation distances are acceptable for both the lower levels (up to three storeys) and higher levels of the proposed development. Furthermore, I consider that this approach is supported by the aforementioned national policy and guidance provisions which recommend a more flexible performance-based application of any such standards. I would accept that the acceptability of reduced separation distances should be dependent upon daylight implications which will be assessed in section 11.7 of this report.

Conclusion on Residential Amenity

11.5.29. As outlined in the foregoing, I have considered the location, nature, scale, design, and layout of the proposed development. I have reviewed the applicant's Housing Quality Assessment and the associated plans and particulars, and I am satisfied that the information provided regarding floor areas, dimensions, and aspect is accurate. Subject to conditions, I am satisfied that the proposed development would provide a suitable mix of units that would provide an acceptable level of residential amenity for the prospective occupants, supported by an appropriate level of communal services and facilities. Accordingly, I would have no objections in this regard. Residential amenity impacts in relation to daylight/sunlight, traffic/transport, and other issues will be dealt with separately in later sections of this report.

11.6. Impacts on Surrounding Properties

11.6.1. The proposed development would be located c. 50 metres from the Grianan Fidh development to the southeast and c. 35 metres from the Cluain Shee development to the southwest. However, for the most part, the closest existing properties do not primarily face towards the proposed development. The proposed development would also be separated from these southern properties by the main 'Village Road' and the existing/proposed public open space. I note the position, height (up to 8 storeys), scale, and design of Blocks C, D, E, H, and J relative to these properties (which are limited to 3-4 storeys). However, having regard to the significant separation distances involved, I do not consider that the proposed development would have any unacceptable impacts on these properties in terms of overlooking, overbearing visual impacts, or other disturbance.

- 11.6.2. To the west of the site is a large and elevated green area which would provide a substantial buffer of 80+ metres between the proposed development and the properties along Belmont Drive. I acknowledge the significant difference in height and scale between the western elevation of the proposed development (up to 7 storeys) and the existing properties (2-3 storeys). Again however, I consider that the significant separation distance would ensure that there would be no unacceptable impacts on these properties in terms of overlooking, overbearing visual impacts, or other disturbance.
- 11.6.3. Separation distances are significantly less to the north along Thornberry Road. I note that concerns have been raised by third parties in this regard, and by the Planning Authority in the recommended reasons for refusal. The proposed development is mainly 2-3 storeys along this northern interface, although Block B rises to 4 storeys. This is generally consistent with the 3-storey height of existing properties along Thornberry Road. The distance between existing and proposed development ranges from 8 metres to c. 26 metres, although the closest distances involve existing gable walls with no openings. The closest opposing windows along Thornberry Road would be c. 20 metres and the scheme includes obscured glazing to mitigate any impacts. I acknowledge that some unobscured windows would remain, but I am satisfied that the separation distance (20m+) would represent only a marginal shortfall of the 22m standard in the Development Plan. And having regard to the reasons and considerations previously outlined in section 11.5.28 of this report, I consider that the proposals are acceptable in accordance with Development Plan flexibility and national policy/guidelines. The proposed bin set-down area has also been located opposite blank gable walls and will not therefore cause a significant amenity problem. Accordingly, I do not consider that there would be any unacceptable impacts on the Thornberry Road properties in terms of overlooking, overbearing visual impacts, or other disturbance.
- 11.6.4. Third-party submissions have also raised significant concerns regarding the Ferncarrig properties to the east. In this case, the separation distances range from c. 39-50 metres. The closest properties do not generally face towards the proposed development, although I note that there are a limited number of west-facing windows (including the front of nos. 24-27). This is a mature residential estate of 2-storey dwellings, while the eastern façade of the proposed development ranges from 3 to 6

storeys. I also acknowledge the existing adjoining linear open space which includes a belt of immature deciduous trees within the Ferncarrig estate.

- 11.6.5. I have considered the height, scale, and design of development along Ferncarrig estate and its relationship with the existing properties to the east, which predominantly face north and south. I acknowledge the significant number of windows and balconies proposed but I consider that they would be suitably distanced to prevent any unacceptable overlooking of existing windows or private open spaces. The proposed development would overlook the adjoining Ferncarrig green area, but I would not have any objection as this is a public open space which should be overlooked.
- 11.6.6. I would accept that the height and scale of the proposed development will significantly change the visual outlook from Ferncarrig. However, given the significant separation distance involved, as well as the limited instances of dwellings which directly face the proposed development, I do not consider that there would be any unacceptable visual overbearing impacts on the Ferncarrig estate.
- 11.6.7. I note that the existing trees along the Ferncarrig estate assist in providing some degree of visual screening. The proposed development is setback c. 8m+ from the shared site boundary and the application includes an Arboricultural Assessment which clarifies that the trees will not be impacted by the proposed development. I acknowledge that these deciduous trees will not provide year-round screening, but I am satisfied that the proposed development does not rely on this. Accordingly, I have no objections in this regard.
- 11.6.8. I would concur with third-party concerns that no lighting should overspill to surrounding properties. This has been assessed by the Planning Authority which states that proposals are generally acceptable subject to alterations to prevent obtrusive light to houses (from the new courtyard on western side of site) and to resolve tree conflicts which prevent light reaching the desired surface. I am satisfied that a detailed lighting scheme can be satisfactorily agreed by condition of any permission.
- 11.6.9. Third-party submissions have also raised concerns about potential construction stage impacts, including traffic and parking, boundaries, working hours, monitoring & complaints procedures, noise & vibration management, excavation, and dust & dirt

impacts. This has been assessed by the Planning Authority which states that proposals are generally acceptable subject to subject to conditions regarding construction management and noise mitigation.

- 11.6.10. The application includes a Construction and Demolition Waste Management Plan (CDWMP) and a Construction Environmental Management Plan (CEMP) which addresses matters including phasing, logistics, traffic/access, health and safety, and environmental considerations. I would accept that some level of construction-related disturbance is an inevitable element of urban development. However, I am satisfied that the applicant's CDWMP and CEMP appropriately address the relevant matters in order to avoid any unacceptable impacts on residential amenity. The final details of same should be agreed by condition with the planning authority.
- 11.6.11. Residents of the Fernleigh estate have also raised concerns about the creation of a pedestrian access on grounds of security, visual impact, and ownership. In principle, I would support the proposed pedestrian accesses on grounds of improved connectivity and permeability, and I do not consider that they would result in any unacceptable security or visual impacts. However, I note that the proposals are described in the application as 'potential future' links and the Landscape Masterplan state that the openings and associated works would be implemented by DLRCC if required. I am satisfied that this represents a suitable proposal which would be subject to appropriate ownership consents if deemed suitable in the future.
- 11.6.12. On the basis of the aforementioned concerns, some third-party submissions contend that the proposed development would substantially depreciate the value of properties in the area. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 11.6.13. In conclusion, I do not consider that the proposed development would unacceptably detract from the privacy or amenity of surrounding properties by reason of overlooking or overbearing impacts. Furthermore, I am satisfied that construction impacts would be consistent with standard urban development of this scale and subject to mitigating conditions, would not result in any unacceptable disturbance to the local population. Other potential impacts on surrounding residents/properties,

including those relating to daylight/sunlight and traffic, will be addressed in later sections of this report.

11.7. Daylight and Sunlight

- 11.7.1. As previously outlined in sections 11.5 and 11.6 of this report, this section now assesses the impact of daylight and sunlight, both within the proposed development and for surrounding properties.

Policy

- 11.7.2. Section 3.2 of the Building Height Guidelines outlines that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 11.7.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to guidance like the BRE (BR 209, (2011)) or BS (8206-2 (2008)) standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight

provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

- 11.7.4. The Sustainable Residential Development Guidelines (2009) highlights the importance of daylight, sunlight, and energy efficiency. It states that daylight and shadow projection diagrams should be submitted and the recommendations of “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” (B.R.E. 1991) or B.S. 8206 “Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting” should be followed in this regard.
- 11.7.5. The Development Plan also acknowledges the importance of good levels of sunlight and daylight in relation to communal open space (s. 12.8.5.3), house design (s. 12.3), and block separation (s. 12.3.5.1). Section 12.3.4.2 requires a daylight analysis for all proposed developments of 50+ units, which should also consider the impact on existing habitable rooms. It states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE Report, 2011) and/or any updated, or subsequent guidance.

Information & Assessment

- 11.7.6. The application is accompanied by a ‘Sunlight, Daylight & Shadow Assessment’ report, compiled by Chris Shackleton Consulting. The report has been carried out in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE, Third Edition, 2022).
- 11.7.7. Although the aforementioned national policy/guidelines refer to earlier versions of the BRE Guidance, I note the publication of the updated (3rd) edition of the BRE Guide in June 2022. I also note that the updated British Standard (BS EN 17037:2018 ‘Daylight in Buildings) replaced the 2008 BS 8206 in May 2019 (in the UK) and that the UK National Annex brings recommended light levels for dwellings more in line with the former 2008 BS 8206.
- 11.7.8. Having regard to the above, I acknowledge that relevant standards and guidance have gone through a transitional period in recent years. However, this has been reflected in the Development Plan which allows for flexibility by stating that development shall be guided by the principles of the BRE Report (2011) and/or any updated, or subsequent guidance. Relevant national guidance (i.e. the Building

Height Guidelines and the Apartments Guidelines) also allow for flexibility in methodology by stating that regard should be taken of guidance/standards 'like' the BRE Guide (2011) or BS (8206-2 (2008)). Therefore, I am satisfied that the applicant's assessment is based on updated guidance/standards which are 'like' those referenced in national and local policy. The methodology employed for the assessment of daylight and sunlight is suitably robust and is based on documents that are considered authoritative on the issues of daylight and sunlight. Therefore, I consider it appropriate to apply these standards in my assessment.

11.7.9. At the outset, I would also highlight that the standards described in the BRE guide allows for flexibility in terms of application. Paragraph 1.6 of the guide states that the advice given '*is not mandatory*', '*should not be seen as an instrument of planning policy*', and '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The guide notes that other factors that influence layout include considerations of views, privacy, security, access, enclosure, and microclimate etc.

11.7.10. In this assessment I have considered the report submitted by the applicant and have had regard to the BRE Guide (2022), and BS EN17037:2018 (including the UK National Annex). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3rd parties and the local authority.

Daylight to existing dwellings

11.7.11. Based on the BRE Guide, loss of daylight to existing dwellings is assessed by calculating Vertical Sky Component (VSC), which is the ratio of the direct sky illuminance falling on the outside of a window, to the simultaneous horizontal illuminance under an unobstructed sky. The BRE Report sets out that a VSC of 27% should achieve enough sky light, but that electric lighting will be needed for more of the time if VSC is both less than 27% and less than 0.8 times its former value.

11.7.12. The applicant's assessment considers 36 no. windows in the adjoining properties to the north, east, and south of the site. The results outline that all except one window would retain a VSC of more than 27%. The one window which marginally falls below the standard (26.3%) would retain 0.89 times the current value. Therefore, all

windows comply with the BRE standards, and I do not consider that the proposal would result in any unacceptable daylight impacts for existing properties.

Sunlight to existing dwellings

- 11.7.13. The BRE Guide recommends that loss of sunlight should be checked for main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If the centre of the window can receive more than one quarter of annual probable sunlight hours (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then the room should still receive enough sunlight. If the window already receives less than this, a reduction to less than 0.8 times its current value and a reduction of more than 4% of annual probable sunlight hours over the year may lead to the room it serves appearing colder and less cheerful and pleasant.
- 11.7.14. The applicant's assessment considers 24 no. south-facing windows in the adjoining properties to the north, east, and south of the site. Not all windows are confirmed as 'living rooms' but they have been included for completeness. The results outline that all windows would comply with the 25% requirement for APSH and the 5% requirement for APSH in the winter months. Therefore, all windows comply with the BRE standards, and I do not consider that the proposal would result in any unacceptable sunlight impacts for existing properties.

Loss of sunlight to existing gardens and open spaces

- 11.7.15. For existing outdoor amenity areas, the BRE Guide recommends that at least half of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- 11.7.16. The applicant's report considers the gardens of properties to the north of the site (excluding those gardens which currently sit to the rear (north) of the existing houses). Of the four gardens assessed, at least 62% of the space would comply with the 2-hour standard and at least 0.92 times the existing standard would be maintained. Accordingly, I am satisfied that the impacts would be acceptable in accordance with BRE standards.

11.7.17. I also note that Appendix 5 of the applicant's report includes alternative year-round assessments of the sunlight impacts for these gardens. I acknowledge that the monthly sunlight check understandably shows much more significant impacts between October and February. However, the APSH assessment shows that these gardens would retain more than 0.8 times their current levels and I am satisfied that there would be no unacceptable impacts in this regard.

Daylight to proposed habitable rooms

11.7.18. The applicant's report outlines that the National Standards Authority of Ireland has adopted EN 17037 to become IS/EN 17307, but which does not include a national annex as can be found in the UK version (BS/EN 17037). I note that the recommendations of EN17037 were intended for internal areas of all types and the target values (at least 50% of the working plane should receive above 300 lux for at least half the daylight hours, with 95% of the working plane receiving above 100 Lux) would be very difficult to achieve for domestic rooms in an urban environment. The UK National Annex recognises this and sets alternative targets to be achieved over at least 50% of the points on a reference plane for at least half of the daylight hours, i.e. 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens (200 lux in combined kitchen/living rooms). These targets are also echoed in the BRE Guide (2022).

11.7.19. The results and conclusions of the applicant's report are drawn against the UK National Annex targets, including the use of 200 lux for combined living/kitchen/dining (LKD) areas. The application also clarifies that a limited number of properties include 'galley' kitchens which open onto well-lit living/dining rooms where the 200lx target is maintained. Having regard to the foregoing, including the difficulty in achieving the EN17037 targets and the similar climatic environments in the UK and Ireland, I consider that the application of the UK National Annex standards is a reasonable and acceptable approach.

11.7.20. The applicant's assessment outlines that 95% of all rooms comply with the adopted standards (100lx for bedrooms and 200lx for LKDs). When 'marginals' (classified as more than 40% of the target lux) are discounted, the level of compliance rises to 99%. The average compliance for areas achieving the relevant target lux for all

bedrooms is 95% and for all LKDs is 69%, both of which are well in excess of the required 50%.

- 11.7.21. Having regard to the above, I am satisfied that the application clearly identifies where the proposed development does not meet the relevant daylight requirements. I consider that the level of non-compliance is relatively minor and insignificant, particularly given that the higher 200lx value has been applied for LKDs. This target is more appropriate in a traditional house layout. In apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 200lx, and even more so when higher density and balconies are included. Therefore, there are often challenges in urban schemes in meeting the 200lx target in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 150lx target is commonly considered to be more appropriate.
- 11.7.22. The Apartments Guidelines (2020) provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. I have already outlined that the Building Height Guidelines provide for similar discretion in the context of SPPR3 and the section 3.2 criteria. The application includes compensatory measures which are discussed later in this report.

Sunlight to proposed dwellings

- 11.7.23. The BRE Guide refers to BS EN17037, which recommends minimum, medium and high levels for sunlight exposure. This is measured via the duration received to a point on the inside of a window on a selected date (21st March) and gives a minimum target of 1.5 hours, medium target of 3 hours, and high target of 4 hours. Section 3.1.15 of the Guide outlines that a dwelling will appear reasonably sunlit if it has at least one main window facing within 90° of due south and a habitable room, preferably a main living room, can receive at least 1.5 hours on sunlight on 21st March. It acknowledges that it may not be possible for every window to face south in larger apartment developments and that compensating factors may apply such as an appealing view to the north.
- 11.7.24. The applicant's assessment applies the above standards. It also refers to an example of 'careful layout design' in the BRE guide where four out of five (80%) apartments have a south-facing living room. The assessment outlines that 95% of all

rooms comply with the BRE Guide standards. When 'marginals' (classified as more than 1 hour of sun) are discounted, the level of compliance rises to 97%.

- 11.7.25. Consistent with the BRE Guide, I acknowledge that the criteria are unlikely to be met for all units in larger apartment developments. Notwithstanding this, I consider that a high proportion of units would comply with BRE standards, well in excess of the 80% standard recommended as being 'careful layout design'. I would highlight that the requirements for alternative, compensatory design solutions (as per the Apartments Guidelines and Building Height Guidelines) apply to daylight provisions, not sunlight. Notwithstanding this, I note that the application proposes compensatory measures which are discussed later in this report.

Sunlight to proposed open spaces

- 11.7.26. The BRE Guide recommends that at least half of the proposed space should receive at least two hours of sunlight on 21st March. The application assesses the two communal courtyard spaces, the central public open space, and all of the individual balcony spaces (although there is not specific requirement for balconies in the BRE guide).
- 11.7.27. The applicant's assessment demonstrates that the communal and public open spaces easily exceed the BRE requirements, with at least 86% of each space receiving 2 hours of sunshine on the 21st of March. It outlines that 95% of all balconies comply with the BRE Guide standards. When 'marginals' (classified as more than 40%) are discounted, the level of compliance rises to 97%. I consider this to be a minor or insignificant level of non-compliance, which would not result in any unacceptable impacts.
- 11.7.28. I note that Appendix 6 of the applicant's report also examines sunlight to the three communal/public open spaces throughout the year. I acknowledge that some spaces would fall below the 50% standard between November and January. However, I am satisfied that the March period is representative of average values throughout the year, which are generally well in excess of the 50% standard.

Compensatory Measures

- 11.7.29. As previously outlined, the applicant has identified instances where the BRE and/or BS standards are not met. In response to the requirements as outlined in the

Apartments Guidelines and the Building Height Guidelines, the applicant has demonstrated how compensatory measures have been incorporated to address any daylight/sunlight deficiencies. These can be summarised as follows:

- Apartment sizes – The 14 no. units that do not meet the daylight standards (excluding marginals) exceed the minimum floor areas by an average of 25%. The 14 no. units that do not meet the sunlight standards (excluding marginals) exceed the minimum floor areas by an average of 18%.
- Rooms Sizes – The individual rooms which do not meet the daylight and sunlight standards exceed minimum floor areas by an average of 14.5% and 5.5% respectively.
- Over 50% of the units which do not meet the daylight/sunlight standards are dual aspect units with views and light from alternative directions.
- There is access to high-quality communal open space, which is well in excess of the minimum requirements.
- The apartments would view onto landscaped open spaces as well as existing and proposed vegetation.

11.7.30. Following on from previous discussion in section 11.5 of this report, I would concur that the apartment sizes and rooms sizes are generous, particularly for BTR development which (as per SPPR 8 of the Apartments Guidelines) can apply lower standards in relation to storage space and the proportion of units which exceed minimum sizes by 10%. The dual aspect proportion for the site is high (52%), particularly if the Board concurs with my opinion that a 33% minimum requirement can apply to this accessible intermediate urban location. I would also accept that the communal open spaces are well designed and significantly exceed minimum requirements.

Third-party submissions

11.7.31. I note that some submissions contend that the assessment is incomplete due to the omission of some properties in the Ferncarrig and Thornberry estates. I note that not all properties / windows / gardens have been included in the assessment. However, I am satisfied that a suitable representative sample of adjoining properties has been

used which adequately demonstrates the worst-case impacts of the proposed development.

- 11.7.32. I acknowledge that the assessment generally applies minimum standards and that these minimum standards are not met in all cases. However, the BRE standards allow for flexibility and mandatory compliance with the BRE standards is not required by either the Development Plan or national policy/guidance (i.e. the Building Height Guidelines and the Apartment Guidelines). Accordingly, I do not consider that that the proposal would materially contravene section 12.3.4.2 of the Development Plan.
- 11.7.33. Some of the third-party submissions refer to poor performance in relation to the 'non-annex' EN 17037 standards as outlined in Appendix 7 of the applicant's report. As previously outlined, I am satisfied that the UK National Annex is the appropriate standard to use and therefore I have considered Appendix 2 rather than Appendix 7. Similarly, I am satisfied that the BRE standard for open space (2 hours across 50% of the area on 21st March) is suitable for this site context.
- 11.7.34. I have considered the context of the site as it relates to surrounding properties and the potential for varying daylight/sunlight effects at different times of the day and year. I have outlined that the application has specifically addressed this matter as it relates to the gardens to the north of the site and open spaces within the proposed development. The APSH and winter APSH sunlight assessments have also outlined that the proposal would comply with BRE standards in relation to year-round impacts on surrounding properties to the north and east. And I am satisfied that the daylight assessments are designed to be appropriately reflective of impacts on surrounding properties at differing times of the day/year. I acknowledge that particular properties will be affected at certain times of the day/year, but this is a commonly accepted aspect of urban development. Accordingly, I am satisfied that the application has adequately considered the surrounding properties and the potential for daylight/sunlight impacts at different times of the day/year, and I do not consider that there are grounds for refusal on this basis.

Conclusions on Daylight/Sunlight

- 11.7.35. In conclusion, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartments Guidelines and the Building Height Guidelines state that appropriate and reasonable

regard should be had to the quantitative approaches as set out in guides like the BRE BR209 (2011) and BS 8206-2: 2008 publications, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives. Similarly, the Development Plan states that developments should be 'guided by the principles' of the BRE guide, rather than any mandatory requirement for strict compliance.

11.7.36. I have considered the issues raised by 3rd parties and the local authority in carrying out this daylight/sunlight assessment, including concerns about impacts on neighbouring dwellings and within the proposed development. I am satisfied that the applicant has carried out a competent assessment in accordance with the relevant BRE/BS guidance and methodology.

11.7.37. I have outlined that the proposed development would comply with BRE standards in relation to daylight/sunlight impacts on surrounding properties. I have acknowledged the instances where the relevant recommendations and standards are not fully met in relation to daylight and sunlight for the apartments within the proposed development. However, having regard to the nature and design of the proposed development; the relatively minor scale of non-compliance with recommendations and standards; the overall quality of amenity for the prospective residents; and the accessible location of the site; I consider that the proposed development would provide an acceptable level of residential amenity.

11.7.38. I am satisfied that alternative compensatory design solutions have been included which would significantly benefit units which fall below the relevant standards, particularly in relation to daylight as required by the Apartments Guidelines and the Building Height Guidelines. Furthermore, I consider that increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact, sustainable development at accessible locations. Accordingly, I am satisfied that increased height and scale of development is appropriate at this location and that, on balance, the limited level of non-compliance with daylight/sunlight standards for the proposed units is acceptable having regard to the need to achieve wider planning objectives.

11.8. Design, Layout and Visual Amenity

- 11.8.1. I note that the Planning Authority and third parties have raised serious concerns about the scale, density, and height of the proposed development. In summary, they contend that the scale, density, and height of the proposal is excessive; that it would detract from the character and amenities of the area; that it would be contrary (some say materially) to Development Plan provisions which have been adopted based on Section 28 Guidelines; and that it would not comply with local and national guidance standards relating to design and layout.
- 11.8.2. I have previously addressed the issues of scale, density, and height in section 11.4 of this report. On this basis, it is my opinion that CDP policy does not place any specific maximum limit on building height or density for this site. Accordingly, the proposal shall be assessed based on its merits and the applicable policy guidance at national and local level.
- 11.8.3. As previously outlined, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility.
- 11.8.4. The Guidelines set out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. In response to these broad principles, I would state the following:
- Having regard to my assessment outlined in section 11.4 of this report, I consider that the proposal assists in securing the NPF objectives of focusing development on key urban centres, fulfilling targets related to infill development, and supporting the National Strategic Objective to deliver compact growth in urban centres.
 - The proposal is in line with the requirements of the development plan, which has taken clear account of the requirements set out in Chapter 2 of the guidelines.

11.8.5. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. In this case, I am satisfied that the proposal is in line with Development Plan policy and does not materially contravene any specific building height objectives. Therefore, the proposal does not rely upon SPPR 3. Notwithstanding this, I acknowledge that the proposed development would be significantly higher than the prevailing building height and I consider it appropriate to apply the criteria outlined in Section 3.2 of the Guidelines. Section 3.2 outlines criteria to be assessed at various scales, as discussed in the following paragraphs.

City/Town Scale

11.8.6. I have already addressed the matter of public transport services in section 11.4 of this report. I am satisfied that the site is within the 1km/10-minute walking distance of the Luas Glencairn stop and that this constitutes a high frequency and high-capacity public transport service. I acknowledge that the bus services in the area have limited frequency and capacity, but I consider that the service would nonetheless assist in providing good links with the Luas. The Luas service would also benefit from a much more comprehensive network of rail and bus services further north along the line towards the city centre. On this basis, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.

11.8.7. In terms of integration with the character and public realm of the area, I would highlight that the site is not located within an architecturally sensitive area or any of the Landscape Character Areas identified in Appendix 8 of the Development Plan. Furthermore, there are no specific CDP objectives relating to the protection of views or prospects at this location. I acknowledge that the proposed development is of a significantly larger height and scale compared to immediately surrounding development, which generally ranges from 2-4 storeys. However, there is an emerging trend of increased height and scale in the wider area, including 6-storey blocks near the junction of Village Road and Enniskerry Road.

- 11.8.8. The application is accompanied by a Landscape and Visual Impact Assessment prepared by 'doyle + o'troithigh landscape architecture Ltd', which is supported by verified photomontages and CGIs prepared by 'Gnet3D'. The assessment methodology is based on relevant guidelines including 'Guidelines for Landscape and Visual Assessment' (The Landscape Institute and Institute of Environmental Management and Assessment, 2013) and I am satisfied that it provides a suitable assessment of the proposed development. It identifies the key residential receptors surrounding the site as well as the key road viewpoints. It acknowledges that the construction stage will cause visual impacts which will be minimised through the use of hoarding, the retention of vegetation, and the use of sensitive lighting.
- 11.8.9. The operational impacts are largely assessed based on a set of 19 no. photomontages. In more distant views (i.e. nos. 10 (Enniskeery Road) and 12), I acknowledge that the proposed development would be effectively screened by existing development and would have no visual impact. No. 9 is also a distant view from the south. I would accept that the proposed development would have a definite visual impact in this case, but I am satisfied that the height and scale would integrate with the existing Grianan Fidh development in the foreground and would not seriously detract from the amenities of the area.
- 11.8.10. The remaining views are taken from points within or closer to the proposed development. Views 1, 3, and 5 are from the west and illustrate the gradual increase in height (3-7 storeys) in conjunction with a gradual lowering of site levels (from north to south). Although the applicant's assessment classifies these impacts as slight/moderate, I would consider that the visual impact would be significant. However, I consider that the lower 2-4 storey height at the northern end suitably integrates with adjoining development, and I am satisfied that the increased height on the southern site would provide a suitable landmark feature adjoining Village Road and public open space. I do not consider that this would seriously detract from the amenities of the area.
- 11.8.11. Views 6, 7, and 8 are taken from the existing Thornberry Road area to the north of the site. These images satisfactorily illustrate that the height of the proposed development would integrate with existing development. I acknowledge that the scale and density of the proposed development would be significantly larger, but I do not consider that this would be unacceptable. Accordingly, I would concur with the

applicant's assessment that the impacts would not exceed a 'moderate' classification.

- 11.8.12. Views 13, 14, and 15 are effectively taken along the central spine of the development. Although the applicant's assessment classifies the impacts of View 13 as 'moderate', I would consider that the impact would be significant. It would change an undeveloped construction site with no defined context into a large-scale urban environment fronting onto a public open space (to the south). The view would capture a range of blocks with a variety of forms, materials, and finishes, which helps to minimise the overall scale and bulk of the development. The existing/proposed open space area to the south would also provide a suitable buffer to transition to the lower height of existing development to the south. Accordingly, I do not consider that the visual impact would be unacceptable at this location. My assessment in relation to the impact of Views 2 and 4 would be similar in this respect.
- 11.8.13. The central open space is an important element in views 13, 14, and 15. In this regard, I would have concerns that Block E detracts from the permeability and visual attractiveness of the overall scheme. In particular, it blocks attractive long-range views from within the central open space towards the south. I consider that this significantly impacts on the functionality and attractiveness of the scheme, and I recommend that the Board should omit Block E in the event of a grant of permission.
- 11.8.14. Views 11, 16, 17, 18, and 19 have been taken from the existing Ferncarrig estate to the east. I have already accepted that the deciduous tree screening along this boundary cannot be relied upon for visual impact. In any case, the proposed building height would rise significantly above the existing screening when viewed from some points within Ferncarrig. Taken together with the overall length and scale of the proposed development at this eastern façade, I would feel that there would be significant visual impacts which differ from the applicant's classification as 'moderate'. However, I consider that Blocks J and F are appropriately separated and that the incorporation of a variety of forms, materials, and finishes help to minimise the overall scale and bulk of the development. There is a significant separation distance from existing development to the east and the existing open space area would also provide a suitable buffer to transition to the lower height/scale of existing development. Accordingly, I do not consider that the proposed development would seriously detract from the character or amenities of the area to the east.

- 11.8.15. In relation to place-making, I note that the proposed layout is largely based around the key existing routes around and within the site. In particular, it would upgrade the existing public open space to the south and provide a new streetscape to define its northern edge. It would also create a large new public open space running north-south through the site, as well as other communal open spaces and east-west connections.
- 11.8.16. With the exception of the potential omission of Block E, I am satisfied that these existing and proposed routes/spaces are suitably proportioned and that adequate separation distances have been provided to accommodate the proposed building heights. And as previously outlined in this report, I consider that the proposed height and massing would achieve the required density in accordance with local and national policy to promote compact sustainable development. Furthermore, the development would be delivered through several distinguished blocks which provide a variety in terms of form and scale.
- 11.8.17. The height and massing of development has had regard to the topography of the site and the context of surrounding development, with the scale of development minimised at the higher northern end in close proximity to the Thornberry development. Otherwise, the perimeter of the development responds to the local environment of open spaces and incorporates a variety of steps and breaks to create a variety of character. The elevational details, materials, and finishes are also suitably modulated to create visual interests in the streetscape.

District / Neighbourhood / Street Scale

- 11.8.18. As previously outlined, the existing natural and built environment is not of any particular sensitivity or valuable character. The proposed development would provide a better utilisation of this site and would appropriately respond to the closest opposing development to the north. Otherwise, the development would benefit from significant separation distances and open space to the south, east, and west. I acknowledge that there would be a significant transition in height on these facades, but I am satisfied that the height and scale can be accommodated to establish a strong character around the site perimeter. The existing and proposed pedestrian/cyclist routes and public spaces would provide improved links between existing development and the introduction of a variety of active uses at ground level

would bring a new vitality to the wider neighbourhood. Accordingly, I am satisfied that the proposal would make a positive contribution to the urban neighbourhood and streetscape.

- 11.8.19. The form and massing of the development is primarily broken down through the arrangement of the development in 9 blocks around a range of pedestrian/cyclist routes and open spaces. The varied height, form, and massing of the blocks introduce further articulation and identity to the appearance of the scheme. Within the blocks themselves, massing techniques are employed to create the appearance of separate volumes within distinctive buildings. And with regard to materials, the blocks are designed to incorporate a wide variety of materials and colours which helps to create a distinctive identity, both individually and collectively. Brick is the primary material and would be provided in three different colours. Stone and metal cladding is also proposed in a range of tones to frame important elements and break the massing of blocks. The scheme would create several character areas which would bring improved legibility and identity to the neighbourhood. Accordingly, despite the significant height and scale of the proposal, I do not consider that it would appear monolithic in its context.
- 11.8.20. There are public spaces to the south, west, and east of the site. The open space to the south functions as an important pedestrian thoroughfare linking with Sandyford Hall and the Luas to the east, while the Village Road is also a key access road for the wider area. As previously discussed, I consider that the proposed development would provide a strong and improved interface with these surrounding routes and spaces. The proposed development would also introduce important new routes/spaces which would enhance the urban design context of the area. However, as previously outlined, I consider that Block E significantly detracts from the urban design context of the central open space and should be omitted. There is no relevant waterway/marine frontage associated with the site. However, a Flood Risk Assessment accompanies the application and is discussed further in section 11.11 of this report.
- 11.8.21. As previously outlined, I consider that the proposed development will significantly improve the legibility of this underutilised site by providing a high-density residential development with a strong identity and varied form. The design and layout will positively contribute to the legibility of the site and wider urban area and will facilitate

improved visual and functional integration in a cohesive manner. Again, I consider that the omission of Block E would be a significant improvement in terms of connectivity, legibility, and functionality.

- 11.8.22. The proposal involves primarily residential use which is consistent with the zoning of the site. However, it includes a range of supporting residential services/facilities and a childcare facility, which I consider to be suitable for this residential zone. In terms of residential typologies, I consider that the proposed apartments would provide an improved mix of residential units compared to the wider traditional dominance of suburban housing. As previously outlined, I consider that the proposed mix of units is acceptable in accordance with local/national policy, and I do not consider that it would result in a proliferation of BTR developments in the area.

Site / Building Scale

- 11.8.23. In previous sections of this report, I have outlined my acceptance that the form, massing and height of the proposed development has been carefully modulated so as to maximise access to natural daylight, ventilation and views (subject to the omission of Block E) and to minimise overshadowing and loss of light. I have outlined how appropriate and reasonable regard has been taken of quantitative performance approaches to daylight provision in guides like the Building Research Establishment's '*Site Layout Planning for Daylight and Sunlight*' (2nd edition), BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*', including the more recently updated guidance on the matter.
- 11.8.24. I consider that the impacts of the proposed development on the availability of sunlight and daylight to both existing and proposed properties would be acceptable. While some shortfalls have been identified in relation to daylight and sunlight for the apartments within the proposed development, I am satisfied that alternative, compensatory design solutions have been incorporated. Furthermore, I consider that the proposed standards are acceptable in order to achieve wider NPF planning objectives relating to compact, sustainable development at accessible locations. I again highlight that the proposed development does not rely on SPPR 3 to justify a material contravention of Development Plan building height policy.

Specific Assessments

- 11.8.25. Finally, the Guidelines state that to support proposals at some or all of these scales, specific assessments may be required. The assessments mentioned are discussed in the following paragraphs.
- 11.8.26. The application includes a 'Wind Microclimate Modelling' report prepared by B-Fluid Ltd. consultants. It is based on the 'Lawson Criteria for Pedestrian Comfort and Distress' and considers the 'baseline existing' and 'proposed development' scenarios. The study demonstrates that wind flow speeds at operational stage for the proposed development would be within tenable conditions. Some higher velocities can be found on main roads, between blocks, and at corners, but the areas can be used for the intended purposes (i.e. short-term sitting and walking). Having regard to the study, I am satisfied that the wind microclimate would be comfortable and usable for pedestrians and would not result in any unsuitable impacts on the surrounding urban context.
- 11.8.27. The application includes an Ecological Impact Assessment (EclA) which considers the potential for impacts on bats and birds. As outlined in section 11.12 of this report, I do not consider that the proposed development would result in any unacceptable impacts on flight lines and/or collision.
- 11.8.28. The application is accompanied by a Telecommunication Report, prepared by Independent Site Management (ISM). This concludes that no microwave links have been identified as being likely to experience significant impact or diffraction on their Fresnel Zones rendering them ineffective as a consequence of the proposed development. Accordingly, I am satisfied that the proposal allows for the retention of important telecommunication channels.
- 11.8.29. In relation to safe air navigation, the application includes evidence of consultation with the Irish Aviation Authority (IAA) on the development proposals by letter dated 8 July 2022. The IAA responded on 26 July 2022 confirming the Authority have no observations in relation to the development. Accordingly, I have no objections in this regard.
- 11.8.30. The application includes an Architectural Design Statement, a Landscape and Visual Impact Assessment, Photomontage and Verified View images, an Archaeological Desktop Assessment, and a Landscape Design Report. I have considered these

documents and I am satisfied that they appropriately assess and justify the urban design approach, as well as the absence of any significant impacts on the historic built environment.

11.8.31. The application includes an EIA Screening Report, an Ecological Impact Assessment, and an AA Screening Report, which are discussed in later sections of this report. I am satisfied that these assessments satisfactorily demonstrate that the proposed building heights would not have adverse impacts on European sites or the local environment.

11.8.32. In conclusion regarding SPPR 3 and section 3.2 criteria of the Building Height Guidelines, I consider that the proposed approach is appropriate given the need to encourage compact sustainable development on underutilised and accessible sites such as this. I have considered the relevant policy in relation to design criteria and guidance, and I am satisfied that the proposed design and layout is an acceptable approach which would satisfactorily integrate with the surrounding landscape and public realm and would positively contribute to the emerging character of the area. However, I do consider that Block E should be omitted in the interests of improved permeability, legibility, and functionality of the central open space, as well as improving the attractiveness of the scheme when viewed from both within the development and from the surrounding area. I acknowledge that this would result in a minor reduction of 16 no. units (or just 3.6%) and would alter the streetscape appearance at the southern end of the scheme. However, I consider that the benefits of the omission of Block E would significantly outweigh any perceived disadvantages.

11.8.33. As well as the Building Height Guidelines, it is important that developments comply with the design criteria outlined in the Urban Design Manual (2009). Many of these criteria have already been satisfactorily covered in the Building Height Guidelines and other sections of my report. However, in relation to any outstanding criteria, I would state the following:

- Connections – The development will provide improved pedestrian/cyclist connectivity and will be within walking distances of a wide range of neighbourhood services and public transport facilities.

- Inclusivity – The units are designed to provide a wide range of high-quality homes to cater for all prospective residents, with a large emphasis of pedestrian and cycle access. The scheme will be fully compliant with Part M of the Building Regulations and incorporates the principles of universal design in accordance with National Disability Authority guidance.
- Efficiency - The scheme will be fully compliant with Part L of the Building Regulations and the design and layout aims to maximise solar orientation. It is accompanied by a Sustainability Report which outlines the various efficiency measures incorporated into the proposed design.
- Adaptability – The units are accessible and are capable of internal modification to meet changing household needs, both within the proposed development and to facilitate movement to/from other units in the surrounding area. As previously outlined, I would recommend increased ceiling heights of at least 2.7m in the upper ground floor units to better facilitate other potential uses.
- Parking – This is discussed further in section 11.10 of this report.

11.8.34. In terms of local policy, I note that the Development Plan (including Policy Objective BHS1) requires that such proposal demonstrate compliance with the criteria outlined in Table 5.1 of the Building Height Strategy. Again, these criteria are generally consistent with those outlined in the Building Height Guidelines, the Urban Design Manual, and other relevant policy/guidance on issues covered elsewhere in this report. Notwithstanding the Planning Authority concerns about these criteria, I confirm that I am satisfied that the proposed development satisfactorily addresses the criteria outlined in Table 5.1.

Conclusion

11.8.35. Having regard to the foregoing, I am satisfied that, subject to the removal of Block E, the proposed development would be of a suitable design and layout which would be consistent with national, regional, and local policy guidance (including the Stepside Action Area Plan). Notwithstanding its comparative significant scale and height, the proposed development would satisfactorily integrate with its natural and built environment and would not detract from the character or amenities of the area in any

unacceptable way. Accordingly, I have no objections in relation to design, layout, and the visual amenity impacts of the proposed development.

11.9. Community Facilities and Public Open Space

Community Facilities

- 11.9.1. The third-party submissions and the CE report from the Planning Authority raise serious concerns in relation to the lack of supporting community/social infrastructure to cater for the predicted future demand from the scheme, including an absence of social, commercial, or retail infrastructure for the wider community within the scheme itself. In particular, concerns have been raised about the inadequate capacity of existing and planned childcare and school services in the area. The application includes a Social Infrastructure Audit which aims to address these concerns. It assesses needs and demands for educational and childcare facilities, as well as assessing the level of existing community infrastructure.
- 11.9.2. In relation to educational facilities, the report identifies 5 no. primary schools and 2 no. post-primary schools within the catchment area of 1.5km radius (which is generally consistent with the Ballinteer / Stepside School Planning Area identified by the DoE). Based on Census 2016 data for surrounding EDs and DoE guidance, it estimates a local school-going population of 4,259 (primary) and 3,017 (post-primary). Excluding the proposed 1-bed units, the demand from the proposed development is estimated to be 85 (primary) and 60 (post-primary), which would be added gradually up until 2026.
- 11.9.3. With regard to existing school capacity, the audit reports that the 5 no. primary schools have a total capacity of 202 and the 2 no. post-primary schools have a capacity of 184. It contends that historic enrolment figures have demonstrated a capacity to accommodate increasing population and, in line with DoE projections for migration and fertility rates, it projects that enrolment figures for primary school are likely to fall from 2020-2021 onwards while post-primary figures will continue to rise and peak in 2024. Using these figures, the report calculates that by 2025-2026 enrolment in the 5 no. primary schools would reduce by c. 195 spaces, while enrolment in the 2 no. post-primary schools would increase by 95 spaces.

- 11.9.4. In relation to school planning and development, the report highlights that the Development Plan identifies 3 no. future school sites within the catchment area. The recently developed Stepside Educate Together Secondary School will have a capacity of 1,000 students, while upgrades are proposed to 2 no. primary schools.
- 11.9.5. I consider that the audit has been based on a reasonable methodology which considers the relevant information from the 2016 Census and Department of Education projections. Based on the existing capacity of schools in the area, the projected demand from the proposed development coming on stream in 2025/2026, and the projected reduction in enrolments after 2024, it is reasonable to conclude that there will be adequate capacity to accommodate the proposed development.
- 11.9.6. Ultimately, I consider that the statutory plan-making process is the preferred instrument to assess and identify school requirements. Under the 'Agreed Actions' of the 'Provision of Schools and the Planning System, A Code of Practice for Planning Authorities, the Department of Education and Science, and the Department of the Environment, Heritage and Local Government (2008), planning authorities should identify suitable lands, policies and objectives for school requirements under statutory plans in consultation with the Department of Education. The current CDP identifies 3 no. sites for future schools in the area and it is reasonable to expect that these sites will be subject to ongoing planning to cater for future demand.
- 11.9.7. In terms of the Development Management process, I acknowledge that the Code of Practice highlights the potential requirement for major housing proposals to be accompanied by school capacity assessments. I am satisfied that this has been complied with in the current application, albeit that the nature and scale of this BTR development would not be likely to create a major increase in demand. In my opinion, the proposed development would not create an excessive or unacceptable demand for school places which would be contrary to the proper planning and sustainable development of the area. Accordingly, I do not consider that refusal of permission would be warranted.
- 11.9.8. The audit bases childcare requirements on the 287 no. 2-bed units only as advised in the Apartments Guidelines. Using the Guidelines on Childcare Facilities recommendation of 20 spaces for every 75 dwellings, it calculates a requirement for 76 no. spaces. However, based on CSO figures regarding a 25% uptake for

childcare/Montessori facilities, the audit contends that that figure could be reduced to as low as 19 no. spaces. Having regard to the nature and location of the proposed development, I consider it reasonable to conclude that demand would range between 19 and 76 spaces. I note that the proposed childcare facility has a capacity of 60 no. spaces, which is at the upper end of the range and is therefore likely to meet the demands of the proposed development.

11.9.9. The audit identified 16 other childcare facilities within the catchment area. They have a total capacity of 897 spaces, with 62 spaces available at the time of audit. It also identifies that permission has been granted for 2 other facilities with an additional capacity of 100 spaces. In terms of future population projections, the report outlines that the age 0-4 cohort has decreased in Glencullen and neighbouring EDs and I would accept that this is reflective of a likely decrease in demand for future spaces.

11.9.10. In conclusion, having regard to the projected population and capacity of the proposed childcare facility, together with the capacity of other facilities in the area and a projected decrease in future demand, I do not consider that the proposed development would create an excessive or unacceptable demand for childcare places which would be contrary to the proper planning and sustainable development of the area. Accordingly, I do not consider that refusal of permission would be warranted on this basis.

11.9.11. The applicant's audit also considers the nature and extent of other community infrastructure within various catchment sizes. The results of the audit are summarised in the table below.

Nature of facility	No. within 750m	No. within 1.5km	Beyond 1.5km
Pharmacy	2	2	5
GP	2	1	5
Dental Care	2	0	3
Hospitals	0	0	2
Other Healthcare	2	4	1
Sports / Recreation	10	6	7
Social / Community	1	2	2

Arts & Culture	1	2	0
Faith	0	1	3

11.9.12. The audit also highlights the presence of a variety of food premises and retail stores in the Belarmine and Sandyford Hall local service centres (within 750m), as well as a wider range of commercial services within 1.5km. Dundrum shopping Centre is within 3.3km of the site and it provides a comprehensive range of retail, commercial, and recreational services.

11.9.13. Having regard to the foregoing, I am satisfied that the proposed development would be served by a comprehensive range and extent of community/commercial facilities within reasonable proximity of the site. I have previously outlined my acceptance of suitable public transport services in the area, and this will facilitate sustainable travel to those facilities located further afield. Furthermore, I am satisfied that the Development Plan has appropriately considered the reservation of lands for neighbourhood/community facilities which will continue to serve residential-zoned site like this as development progresses. I note that section 12.3.2.2 of the CDP includes specific requirements for Sustainable Neighbourhood Infrastructure in 'new residential communities'. However, as previously outlined, I do not consider that the site is within a 'new residential community' and I am satisfied that it has appropriately addressed requirements for 'existing built-up areas'. Accordingly, I do not consider that refusal of permission would be warranted on this basis.

Public Open Space

11.9.14. The third-party submissions outline concerns that the quantity and quality of public open space provision is inadequate and would materially contravene CDP requirements. However, the Planning Authority has not raised fundamental concerns in this regard and outlines that there would be no objections subject to conditions including the removal of Block E.

11.9.15. Section 12.8.3.1 of the CDP outlines that public open space is required as a minimum 15% of the site area. It must be publicly accessible and useable; generally free from attenuation measures; and capable of being taken in charge. The CDP

acknowledges that the above standards may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted.

- 11.9.16. I note that the two portions of the site owned by DLRCC already constitute public open space and I would concur that they should be omitted from the calculation of open space requirements. It is proposed to upgrade the larger portion of DLRCC lands to the north of Grianan Fidh and I am satisfied that this would positively impact on the quality of open space in the area.
- 11.9.17. In the smaller portion to the south of Grianan Fidh it is also proposed to install an underground wastewater storage tank, above ground detention area, and a small above ground kiosk are proposed at this location. In section 11.3 of this report, I have already outlined my opinion that these works would not detract from the character or functionality of the overall open space area. I note that third-party concerns have been raised about the loss of trees in this area and that this would conflict with the DLRCC terms of consent for the making of the application. However, I note that the DLRCC Parks Section report now confirms that there are no objections to the loss of any such trees subject to suitable replacement and other conditions. The DLRCC letter of consent also states that the details outlined therein are not binding on the Council and that the works would be completed under licence from DLRCC. I am satisfied that this process would appropriately address the question of consent between the relevant parties.
- 11.9.18. The remaining main residential site has a stated area of 2.84ha. Consistent with the foregoing, I consider that open space requirements are at minimum 15% of this residential site area, which amounts to 4,260m². The application outlines that a total of 4,930m² is proposed, consisting of the 'Arrival Plaza', the 'Central Courtyard', and the North Square'.
- 11.9.19. I note that the central courtyard area includes an underground attenuation tank covering an area of c. 755m². Section 12.8.2 outlines that underground flood attenuation tanks will not normally be considered as part of open space provision, while section 12.8.3.1 states that such areas should be generally free from attenuation measures. I acknowledge this guidance, but I consider that the use of conditional terms such as 'not normally' and 'generally' allow for discretion on the matter. In this case, I consider that the area has been designed as attractive and

functional public open space which would not be significantly affected by the presence of underground infrastructure. Accordingly, I consider that the full proposal for 4,930m² should be considered as public open space which would not materially contravene the CDP provisions. The Board should note that the Planning Authority has not outlined any different conclusion on this matter.

- 11.9.20. Even if the Board considers that the underground attenuation area (755m²) should be deducted from the 4,930m², it would still retain 4,175m² or 98% of the 4,260m² requirement. In my opinion, this would constitute only a minor shortfall which would not materially contravene the CDP requirements. Furthermore, if the Board concurs with the removal of Block E as I have recommended, an additional public open space area of c. 418m² could be added to exceed the minimum requirements.
- 11.9.21. Notwithstanding the foregoing, I have also highlighted that the CDP allows a financial contribution in lieu of a shortfall of public open space in suitable instances. The CDP cites examples to include high density urban schemes and/or smaller urban infill schemes. However, I do not consider this to be an exhaustive or exclusive set of circumstances. In this case, I note that the proposal involves a suitably high-density development at an accessible location, and it includes a significant excess of communal open space and suitably designed underground attenuation measures. In these circumstances I consider that the potential for additional public open space would be expectedly limited and that a financial contribution in lieu of any perceived shortfall would be a reasonable solution. I consider that this is provided for in CDP policy and therefore any such approach would not constitute a material contravention.
- 11.9.22. I note that the application (Material Contravention Statement) also considers public open space in the wider area, including the 2.08ha space to the west of the site. I have previously discussed this matter and my opinion that the space could be delivered even despite any expiration of permission. However, despite the views outlined by some third parties, I do not consider that the proposed development relies on this space to comply with public open space requirements for the reasons outlined in the preceding paragraphs.
- 11.9.23. In conclusion, I consider that the proposed development complies with the CDP quantitative requirements for public open space. However, consistent with my

previous recommendations, I consider that the quantity and quality of public open space would be significantly and appropriately improved through the removal of Block E and its replacement with an enlarged and continuous central spine which would link with the existing open space to the south of the site. Otherwise, I would have no objections in relation to public open space.

11.10. Traffic and Transport

11.10.1. The application is accompanied by a Traffic and Transport Assessment (TTA) and a Quality Audit (including Stage 1 Road Safety Audit (RSA)), both prepared by AECOM consultants. The TTA outlines the existing transport infrastructure in the area, including the public transport network and a Public Transport Capacity Assessment. I have already discussed this matter in section 11.4 of this report, and I have concluded that the site is included within an accessible intermediate urban location as defined in the Apartments Guidelines, and that the proposed development should not be constrained by the capacity of public transport services in the area.

Traffic Impact

11.10.2. The TTA outlines that baseline traffic surveys were carried out at 5 junctions on Thursday 3rd October 2019 (07:00 – 19:00). It assumes that this pre-Covid-19 survey represents a robust, worst-case scenario, which has been corroborated by findings of significantly lower traffic flow findings in a more recent (16th August 2022) survey of Junction 2. Therefore, despite third-party concerns that the traffic survey data is outdated and/or inadequate, I consider that it presents a reasonable and comprehensive assessment of conditions at appropriate times and dates.

11.10.3. The TTA incorporates traffic growth in accordance with TII guidelines and considers the cumulative impact of 3 other planned developments (total of 278 units). It uses TRICS data to calculate trip generation (159 (AM Peak) and 144 (PM Peak)) and also considers trip distribution based on the survey results. Based on the foregoing, it calculates percentage impact on the road network and concludes that the impacts on Junctions 2-5 would exceed 5% of existing flow. In accordance with TII Guidelines, it outlines that further assessment of these junctions is required. Junction 1 would not exceed 5% for the AM or PM peaks (2% and 4% respectively) and

accordingly it concludes that traffic would have dissipated sufficiently. On inspection of site, I also noted that significant upgrading works are currently underway at Junction 1.

- 11.10.4. Junction modelling analysis has been undertaken for Junctions 2-5. It outlines that Junction 2 would operate within capacity in all scenarios up to 2040 in the AM peak. In the 2040 PM Peak, it would exceed capacity (even without the proposed development) but it is suggested that a revised signal cycle would satisfactorily mitigate the issue. Analysis of Junction 3 shows that there would not be more than negligible impacts on Ratio to Flow Capacity (RFC) and Mean Maximum Queue (MMQ). Junctions 4 and 5 would experience increases to RFC and MMQ. However, the predicted increases would not be significant, and no arms of these junctions would operate above or close to the acceptable RFC of 0.85.
- 11.10.5. I note the third-party concerns that the assessment is not based on accurate numbers and does not contain an adequate cumulative assessment of all relevant junctions, including Junctions 1 and 2. The submissions have outlined experience of serious traffic congestion on the surrounding network. However, these concerns relate to existing conditions, and I am satisfied that the TTA has satisfactorily outlined that the predicted impact on Junction 1 would not exceed the 5% threshold to warrant further assessment. Furthermore, the capacity of this junction will be improved by the current upgrade works in advance of the completion of the proposed development. The TTA has acknowledged that capacity would be exceeded in Junction 2. However, this would not occur until 2040 and would occur with or without the proposed development. And based on the suggested mitigation measures, I am satisfied that this issue could be quite readily resolved through an amended signal cycle.
- 11.10.6. Given that the proposed development has been appropriately 'stress tested' in terms of traffic growth, and that the instances of exceeding capacity are limited, I would consider that the predicted impacts are not uncommon or excessive. The Board should note that the Planning Authority did not raise significant concerns in this regard. I would also suggest that the significant spare capacity identified in Junction 5 could have the effect of attracting development trips away from Junction 2 as the road network flows 'balance out'. I consider that junction capacity is likely to be further improved through a range of planned public transport and pedestrian/cycle

improvements, and I would highlight that providing more road space to cater for private vehicles would undermine national and local transportation planning policies which aim to promote sustainable transport modes. Accordingly, I do not consider that refusal of permission would be warranted on grounds of traffic generation and/or road network capacity.

Parking

11.10.7. Significant concerns have been raised by observers and the Planning Authority about a perceived inadequate provision of car parking, with observers suggesting that this amounts to a material contravention of the CDP. There are concerns that this would lead to overflow parking on adjoining roads/areas which would cause traffic congestion/hazard and would detract from the amenities of the area.

11.10.8. The proposed development includes a total of 350 car spaces, including 343 resident spaces at basement level and 7 no. visitor spaces at surface level. The Planning Authority (Transport Section) contends that the site is not adequately served by public transport and that the ‘Zone 3’ parking standards apply to the site. However, I have previously outlined my opinion that the site is adequately accessible to public transport services, and I note that the site is located within both car parking zones 2 and 3 as per the CDP. The Development Plan requirements for residential development in each zone are outlined in the table below.

Unit Type	No. of Units	Zone 2 Requirement	Zone 3 Requirement
1-bed Apt	154	Min. 1 space per unit (154 spaces)	Min. 1 space per unit (154 spaces)
2-bed Apt	284	Min. 1 space per unit (284 spaces)	Min. 1 space per unit (284 spaces)
Visitor (residential)		0	1 in 10 (44 spaces)
Total	438	438	482

11.10.9. Having regard to the above, I consider that the site is located within a transitional area between Car Parking Zones 2 and 3 where Development Plan requirements for the residential units would range from 438 to 482 spaces. Notwithstanding this, the

Development Plan outlines that reduced provision may be acceptable dependant on criteria outlined in section 12.4.5.2 of the CDP. In response to those criteria, I would state the following:

- The site is adequately accessible to public transport services.
- As outlined later in this report, I am satisfied that the site is adequately served by pedestrian/cycle connections and the proposed development would positively contribute to same.
- Reduced car-parking would promote modal shift and safeguard investment in sustainable public transport.
- The scheme includes 5 no. car club spaces to reduce private car reliance. 14 no. motorbike spaces and 31 no. cargo cycle spaces are also included.
- Section 12.4.5.6 of the CDP accepts that BTR schemes may avail of lower car parking standards based on the nature of the use.
- There is a good range of services in the area as previously outlined in section 11.9 of this report.
- As outlined later in this report, I am satisfied that there would be no unacceptable traffic safety impacts.
- There would be no unacceptable impacts on the capacity of the road network.
- As per section 11.8 of this report, the proposed development would be acceptable from an urban design perspective.
- The TTA includes an Outline Mobility Management Plan which suitably aims to reduce dependency on the private car.
- On street parking does not appear to be a significant problem at this location.

11.10.10. In addition to the above, Chapter 4 of the Apartments Guidelines addresses car-parking requirements. For intermediate urban locations served by public transport, it states that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. And specifically in relation to BTR development, SPPR 8(iii) outlines that a default of minimal or significantly reduced car parking provision shall apply based on central locations and/or proximity to public transport. Therefore, having regard to the BTR nature of the development

and its accessible intermediate urban location, I have no objection in principle to reduced parking in this instance.

11.10.11. In cases where reduced parking is accepted, the Apartment Guidelines states that it is necessary comply with certain criteria, many of which have already been covered by the criteria in section 12.4.5.2 of the CDP. In relation to the other criteria, I would state the following:

- The scheme includes set down areas along the western and northern site boundaries. These areas are multi-purpose in catering for visitor spaces, creche parking, servicing vehicle and drop-off. I would concur with the Planning Authority view that these provisions are inadequate, but I am satisfied that there is adequate potential to provide additional space and that these arrangements could be agreed by condition.
- 17 no. spaces would be provided for the mobility impaired.
- In relation to cycle parking, I note that it is proposed to provide a total of 669 no. spaces, including 98 no. visitor spaces. This would exceed the CDP standard of 525 spaces (based on 1 long-term space per unit and 1 short-stay space per 5 units), although it would be below the Apartment Guidelines general standard of 941 spaces (based on 1 space per bedroom and 1 visitor space per 2 apartments). Given the reduced car-parking provision proposed, I considered it important to achieve adequate compensatory cycle parking. However, I consider that there is ample opportunity to increase cycle space numbers within the scheme and I am satisfied that this could be satisfactorily addressed by a condition of any permission.
- I am satisfied that the basement parking area will be well lit and adequately ventilated.

11.10.12. In conclusion on car-parking, I acknowledge that the application proposes a ratio of c. 0.8 spaces per unit and that the proposed spaces (350 no.) would not meet CDP standards of 438 to 482 spaces. However, the CDP allows for reduced provision, and I am satisfied that this proposal would comply with the criteria outlined in section 12.4.5.2 of the CDP and would not represent a material contravention. The principle of reduced parking is also supported in the Apartment Guidelines and subject to conditions, I am satisfied that the proposal would accommodate alternative

measures to appropriately reduce car-parking dependency and would not result in overflow parking to adjoining areas. It is proposed to provide 35 no. electric vehicle spaces in each basement, which would comply with the CDP requirement for 1 in 5 spaces.

11.10.13. In relation to the proposed creche, I note that Development Plan car-parking standards allow a maximum of 1 space per 60m² (Zone 2) or 1 space per 40m² (Zone 3), resulting in a range of c. 8 to 12 spaces. The proposal includes 2 dedicated basement spaces for creche staff, while it also proposes that the set down area to the west of the site could accommodate 3 no. spaces. This is clearly consistent with the CDP maximum standards. However, as previously outlined, I consider that additional drop-off/visitor space should be provided subject to agreement by condition. 11 no. cycle spaces have been allocated to the creche and I am satisfied that this is generally consistent with DLRCC standards (1 short-stay space per 10 children, and 1 long-stay space per 5 staff). The cycle space would be suitably located and accessible to the creche.

Other Traffic/Transport Issues

11.10.14. I note the Planning Authority's view that cycle storage design standards are not in accordance with requirements (Standards for Cycle Parking & Associated Cycling Facilities for New Developments, 2018), which prefer the use of 'Sheffield' stands and do not recommend stacked cycle stands. Apart from 80 no. spaces, the remainder of standard cycle spaces are to be stacked. However, the Apartments Guidelines do not prohibit the use of stacked cycle spaces and I am satisfied that they are an acceptable and commonly used solution which maximises space efficiency in higher-density schemes like this. The spaces are suitably distributed throughout the scheme, at surface level and basement level. Advisory cycle lanes have been provided on the basement ramps and the basement layout provides for pedestrian/cycle lanes and crossing points. There are several lift shafts accessing the basement level and these will suitably facilitate suitable access and egress to/from the cycle storage areas.

11.10.15. The TTA includes an assessment of cycle/pedestrian facilities in the area, as well as planned cycle upgrades (feeder lanes) running south, east, and west of the site. These feeder lanes will link to primary and secondary routes in the wider surrounding

area. The scheme includes a comprehensive range of pedestrian and cycle connections within the site. The western and northern pedestrian/cycle infrastructure is already established. There is an existing boundary along the eastern side of the site and the applicant has proposed linkages subject to agreement with all relevant parties. The open space to the south functions as an important pedestrian link and this will be upgraded with pedestrian/cycle linkages as part of the proposed development. However, as opposed to the potential future cycle connection to the east, I consider that there is an opportunity to achieve such a connection at the existing opening at the extreme southeast corner of the site. The cycle route should therefore be realigned to go through the southern open space and exit through this southeast opening. This matter could be satisfactorily agreed through a condition of any permission, along with other matters of detail regarding cycle tie-ins, crossing etc.

11.10.16. I acknowledge that the proposed development may be completed in advance of the planned network of cycle improvements in the wider area. However, the proposal itself would incrementally contribute to improved connectivity and sustainable travel and I do not consider that it should be deemed premature pending the completion of the planned cycle network.

11.10.17. The Quality Audit submitted with the application has included a DMURS Street Design and Access Audit, a Cycle Audit, and a Walking Audit. I consider that it has appropriately identified and resolved the relevant features of the proposed development with suitable recommendations which will be incorporated into the scheme.

11.10.18. The Road Safety Audit identifies potential problems with the basement access onto Atkinson Drive. These relate to visibility from the access and autotracking analysis to demonstrate that vehicles can access the basement safely. In response, the application includes a drawing showing visibility of 23 metres from each entrance, which is acceptable in accordance with DMURS standards. I acknowledge the third-party concerns about traffic safety, but I do not consider that these entrances would interfere with the safety of traffic at this residential location. The application includes an autotrack analysis drawing which shows that fire tender and servicing access is suitably achievable around the site. The drawing does not demonstrate access to the

basement. However, I am satisfied that the access has been suitably designed and access will be achievable subject to agreement of details by condition.

11.10.19. The Planning Authority has raised concerns that the RSA has not been completed by independent consultants. I acknowledge that the RSA consultants (AECOM) have been involved in other aspects of the application. However, the Audit Team Statement confirms that no members of the audit team have been involved in the scheme design. The TII Road Safety Audit Guidelines Standard GE-STY-0124 (section 3.4) states that audit team members should be independent of the design team but does not preclude members from the same consultancy working independently on the design and audit. Accordingly, I am satisfied that the RSA has been appropriately prepared, and I have no objection to the findings and recommendations of same subject to conditions.

11.10.20. An Outline Construction Traffic Management Plan is included in section 9 of the TTA. It proposes that Construction Traffic would access and exit the site from the M50 Junction 14 travelling down the Kilgobbin Road, turning right onto the R113 then turning left onto the R117 and onto the Village Road which will lead to the site. This route is approximately 1.77km in length. Observers have submitted that the R113 is not fit for this purpose due to inadequate width and a 3-tonne limit which is in place. I would acknowledge the observers concerns about the capacity of the R113 (Hillcrest Road), although the Planning Authority has not raised specific concerns in this regard. Ultimately, I consider that construction traffic, access, and parking arrangements should be agreed prior to construction when more detailed and up-to-date measures can be designed. I am satisfied that this can be appropriately addressed through a condition of any permission.

Traffic & Transport Conclusion

11.10.21. Having regard to the foregoing, I consider that the proposed development would provide a residential development which would be appropriately located and designed to promote sustainable transport modes. This would be consistent with local and national transportation planning policy which aims to reduce reliance on the private car and would not unacceptably impact on the safety or capacity of the surrounding road network. Suitable pedestrian/cycle facilities and other mobility management measures have been incorporated to appropriately support the limited

level of car reliance. Accordingly, I would have no objections subject to conditions as previously discussed.

11.11. Drainage, Flood Risk and Water Services

- 11.11.1. The application includes a Drainage Design Report (DDR), a Flood Risk Assessment (FRA), a Hydrological & Hydrogeological Qualitative Risk Assessment, a Water Framework Directive (WFD) Assessment, and a Stormwater Audit (Stage 1). These documents are supported by the detailed drawings and specifications which have been submitted as part of the application.

Surface Water

- 11.11.2. The DDR notes that there is an existing storm water sewer running through the site which connects to the existing underground concrete attenuation tank located on the site, which then eventually outfalls to the Ballyogan Stream. It is proposed to divert this on-site sewer to accommodate the proposed new development. The proposed strategy incorporates a wider area than just the site. It considers a range of Sub-Catchments covering existing development, including A, B, and D to the north and west of the application site (which is Sub-Catchment C).
- 11.11.3. The existing attenuated flow from Sub-catchment A discharges to the surface water sewer system in Sub-catchment B. The surface water drainage system for Sub-catchments B & C will then be attenuated in proposed and existing underground concrete storage tanks and blue roofs. The surface water generated from the proposed development will be discharged via the existing storm water drainage network and an existing flow control device (limiting the site runoff to $Q_{BAR} = 53.3l/s$) using the existing connection to the storm water drainage network along Village Road. The proposed surface water attenuation is also designed to accommodate the surface water from the existing occupied development to the west of this site (Sub-Catchment D), in line with requests from the Planning Authority and as planned in the original permission (D10A/0440). The proposed design has been the subject of a Stage 1 Audit and the recommendations of the audit have been accepted in the design.
- 11.11.4. I acknowledge that observers have raised concerns about drainage issues and contend that the drainage report has not adequately demonstrated suitable capacity

and design proposals. However, the reports from DLRCC outline that the application includes a detailed assessment which generally satisfies the requirements of planning design stage. I would agree that the assessment contains adequate information for this stage of the process and that it has been demonstrated that the drainage design can accommodate the proposed development and the relevant adjoining developments. The detailed design measures can be agreed with DLRCC by condition.

Water Supply

- 11.11.5. It is proposed to provide a new internal distribution system to connect to the external watermain provided within the development, which will then connect to an external spur from the existing local authority watermain to the south of Block D. Internal and external firefighting measures have also been accommodated. The application includes Irish Water letters of 'Design Acceptance' and 'Confirmation of Feasibility', and the Irish Water observations confirm that the water connection is feasible without the need for infrastructure upgrade. Accordingly, I have no objections in this regard.

Wastewater

- 11.11.6. The proposed foul sewer works will include a new foul sewer network, the relocation of the existing foul sewer serving the existing occupied development to the north, and relocation of the existing foul sewer to the perimeter of the site. The capacity of the relocated pipe is sufficient to accommodate more than 700 dwellings, which will be comfortably sufficient to cater for the 140 no. existing dwellings to the north and the proposed units within blocks F, G, H and J. Blocks A, B, C, D and E will discharge through a separate foul sewer network to the Local Authority foul sewer.
- 11.11.7. In response to previous concerns raised by Irish Water regarding the risk of downstream flooding as a result of storm water inflow to the foul system, it is proposed to provide a 500m³ storage tank on public open space to the south of the Grianan Fidh estate. The FRA, Drainage Design report, and drawings submitted with the application (DWG No.s D1636-D1000 and D18) set out details of this storage tank. It will have a total volume of 500 cubic meters and will have an underground footprint of 12500mm x 14500mm. The associated kiosk will be located above ground and the dimensions of same are H: 1800mm W: 2000 mm and D: 1200mm.

The area in the immediate vicinity of the tank will be landscaped to include a localised detention basin in case of a pump failure.

- 11.11.8. Several observers have outlined concerns about foul/storm water run-off in the area and contend that the proposed storage tank is inadequately designed to resolve the potential flooding problems. It has been submitted that the network design and storage tank is not in accordance with Irish Water standards and that IW correspondence refers to a different development. I note that the Irish Water pre-planning documentation refers to a different number of dwellings (455) but it should be noted that it has commented on the formal application and confirmed that proposals are feasible subject to infrastructure upgrades, namely the proposed storage tank (500m³) to mitigate storm water impacts. Furthermore, I am satisfied that the detailed design of the foul sewer network will be required to be in compliance with the requirements of Irish Water. Such requirements include the need for an alarm system in the case of failure and remote monitoring of the pump station/storage tank. I am satisfied that such detailed design can be agreed by condition in advance of construction commencing, as per normal procedures.
- 11.11.9. Concerns have also been raised about the localised detention basin at surface level to be provided in case of a pump failure kiosk. I do not consider that the use of a detention basin is appropriate from both a public health and amenity perspective and such a solution is not referenced within Irish Water's Code of Practice for Wastewater Infrastructure (July 2020, Revision 2). In the event of a grant of permission, I consider that a condition should be imposed to require that wastewater infrastructure will be designed and constructed to the requirements of Irish Water, and that the use of the proposed detention basin shall be replaced by a suitable alternative.

Flood Risk

- 11.11.10. The FRA accompanying the application notes that the nearest watercourse to the development site is the Ballyogan Stream which lies c. 170m south of the main site. It also notes that the proposed storage tank is located closer to the Ballyogan Stream. No flood events have been recorded on the site. The Eastern CFRAM predicative flood map indicates no fluvial risk to the proposed site and foul tank location for the 10%, 1% and 0.1% AEP events. Similarly, the OPW PFRA mapping

showed no risk of pluvial flooding. The FRA notes that groundwater may be a flood risk to the west half of the site due to the low depth to bedrock levels. However, it also notes that there is no historical flood event recorded of prolonged groundwater flooding and the PFRA considered groundwater flooding and did not show any significant risk on the site. As previously outlined, the FRA also acknowledges the foul water flooding concerns and the applicant's proposals to provide a storage tank.

11.11.11. From the review of available resources, the FRA concludes that the site (including storage tank) is at low risk of flooding and is located within Flood Zone C. It outlines that mitigation measures have been incorporated to minimise potential flooding as follows:

- Finished Floor Levels will be at least 150mm above local hardstanding ground to protect against surface water exceedance or drainage system failure.
- Surface water drainage shall be in accordance with the Drainage Design Report as previously discussed.
- The foul water drainage system shall incorporate the storage tank as previously discussed.

11.11.12. In terms of residual risks, the FRA states that the surface water attenuation system has been designed to cater for a 1% AEP event plus a 10% allowance for climate change. It also considers the potential for surface water exceedance and drainage system failure, specifically the upstream attenuation area in Sub-Catchment A. Hydraulic modelling has been completed and any predicted shallow overland flows will be facilitated by a dropped kerb (north of Block F) and a ramp up to the basement access will prevent basement ingress. The modelled water level would be 420mm below the FFL of Block F. Furthermore, modelling of the existing attenuation tank to the south of the proposed blocks predicts that spills would occur onto Village Road and flow south to Ballyogan Stream. Accordingly, the FRA concludes that the development is at low risk and would not increase risk of flooding elsewhere.

11.11.13. I note the third-party concerns about flooding, particularly ground water and a perceived inadequacy in combined modelling requirements. However, the Planning Authority accepts the conclusions of the FRA subject to the clarification and agreement of details by condition. I note that the FRA uses a 10% attenuation allowance for climate change, and I am satisfied that this appropriately accounts for

this factor. I also note the reference to an attenuation volume of 985m³ in the existing tank to the south of the site and I am satisfied that this is achievable as drawing no. D1636 – D2 indicates that this tank has a volume of 1113m³. A condition should apply to any permission to ensure that all drainage details are in accordance with the requirements of the planning authority.

11.11.14. Having regard to the foregoing, I consider that the FRA has appropriately identified the relevant flood risks. I consider that groundwater flood risk has been adequately addressed and there has been no evidence of potential risk in PFRA mapping. In my opinion, the FRA has carried out adequate modelling of flood risk and given the limited risk there is no requirement for a combined modelling assessment. I am satisfied that the proposed residential development is acceptable within a low-risk Flood Zone C area and a Justification Test is not required in accordance with the Flood Risk Guidelines. Accordingly, I have no objections in relation to flood risk subject to conditions.

11.12. **Ecology**

11.12.1. The application includes an Ecological Impact Assessment (EclA) prepared by Scott Cawley Ltd. consultants. It is based on a desk study and several field surveys carried out in May/June 2022. Impacts on European sites are dealt with in the applicant's Appropriate Assessment Screening Report and are discussed separately in section 13 of this report.

Habitats

11.12.2. A habitats and flora survey was carried out on 1st June 2022. No plant species protected under the Flora (Protection) Order 2022 were recorded and no non-native invasive species were recorded. Habitats were recorded under the Fossitt classification system and no habitats corresponded to Annex I habitats of the EU Habitats Directive. The site classification mainly consists of Amenity Grassland, Dry Meadows and Grassy Verges, Spoil and Bare Ground, and Recolonising Bare Ground, all of which have been classified as local importance (lower value) due to low species variety and their relatively common presence. The treeline to the east of the site is considered to be of local importance (higher value) as it forms part of the wider linear habitat network.

- 11.12.3. The nearest nationally designated site is identified as Fitzsimon's Wood pNHA (c. 626m NW of the site). By virtue of its separation distance and lack of connectivity, The EclA concludes that there is no risk of affecting the integrity of this site. It also states that habitat loss within the main site will be limited to local importance (lower value) and will not result in significant effects on biodiversity. The treeline to the east of the site will not be lost and the EclA states that the loss of 4 no. trees on the southern site portion would not be a significant effect. It outlines proposals for vegetation in the landscaping plan and mitigation measures for the retention and protection of trees during construction, concluding that there will be no significant residual effects on habitats or flora.
- 11.12.4. I consider that the EclA has appropriately surveyed and classified the habitat and flora on the site and surrounding area. I would concur that any loss of habitat would be of limited value and that adequate mitigation measures have been included. Accordingly, I am satisfied that there would be no significant or unacceptable effects on habitat or flora.

Terrestrial Mammals

- 11.12.5. A field survey was carried out on 1st June 2022. The EclA outlines that the main site is fenced with hoarding which isolates the site from external foraging routes. While the open amenity grassland habitats may offer some foraging potential, they offer very little shelter and are surrounded by high disturbance residential uses. No badger setts or signs of other relevant foraging mammals (as per the National Biodiversity Data Centre (NBDC) records) were found. The report outlines that the site contains no suitable habitat for Irish Stoat, Pine Marten and Red Deer, but that grasslands may provide foraging and breeding habitat for the local hedgehog population, and to a lesser extent for foraging badgers.
- 11.12.6. The EclA outlines that the loss of habitat is small and insignificant in comparison to typical badger and hedgehog territory sizes, as well as the abundance of suitable habitat in the surrounding area. It highlights the absence of activity during surveys and contends that construction disturbance will be limited in scale and will occur during daylight when badgers and hedgehogs are least likely to be active. The species are widespread in Ireland and will adapt at the operational stage when additional landscaping will provide foraging opportunities, including holes in

boundaries to facilitate hedgehog movement. The EclA concludes that there will be no significant residual effects on the local badger and hedgehog populations.

- 11.12.7. I note that observers have raised concerns about effects on wildlife including foxes, badgers, and hedgehogs. However, I consider that the EclA has outlined appropriate survey details which do not indicate a significant presence of terrestrial mammals. I would concur that an abundance of suitable habitat will remain, and that the relevant species would suitably acclimatise at both construction and operational stages. Accordingly, I am satisfied that there would be no significant or unacceptable effects on terrestrial mammals.

Bats

- 11.12.8. Temporary structures and trees were assessed for roosting and/or foraging bats on the 1st June 2022 based on advice contained in '*Bat Surveys for Professional Ecologists: Good Practice Guidelines*' (Collins, ed., 2016). No trees or buildings with potential roost features (PRFs) were found in the site surveys and therefore further roosts surveys were not deemed necessary. A static detector was employed on site for 2 weeks in June, including the treeline to the east of the site. Three species of bat were recorded within the site (soprano pipistrelle, common pipistrelle, and Leisler's bat) and activity levels were generally low. The EclA concludes that the site is being used by a small population of light-tolerant species commonly found in urbanised environments. While the site and treeline outside the site contains suitable foraging and commuting habitats, the surrounding residential use reduces suitability for activity and the site is not well connected to higher quality habitats in the wider area. It concludes that the species are common and classified as of 'least concern', and that the site and surrounding area is of local importance (higher value) for bats.
- 11.12.9. The EclA outlines that habitat loss will be contained within the site and that the zone of influence (ZOI) relating to construction activities is not likely to extend more than several hundred metres. It highlights that the site is already partially illuminated and is not significantly suitable for bats due to the lack of vegetation, while surrounding treelines provide moderate suitability for foraging bats. It states that no lighting will be introduced in the smaller southern site portion, while the main development site will not have a significant increase in existing lighting levels. The landscaping includes 384 no. additional trees where light tolerant species may benefit from

increased foraging resources. The report contends that the building height does not pose a collision risk for bats given that Irish bats navigate largely by echolocation calls and the absence of potential roost features (PRFs) in the site surveys. Measures to control light spill will be implemented during construction and operational stages and the EclA concludes that there will be no unacceptable residual effects on bats.

- 11.12.10. I acknowledge that bats and their breeding and resting spaces are protected under the Wildlife Acts, and that all bat species are listed under Annex IV of the EU habitats Directive and are afforded strict protection under the Habitats Directive and the European Communities (Birds and Natural Habitats) Regulations, 2011. I also acknowledge the concerns raised by observers in relation to the impacts on bats.
- 11.12.11. I consider that the EclA has appropriately surveyed and identified the potential for bat activity within the site and surrounding area. I am satisfied that no PRFs have been recorded. And while the site and surrounding treelines contain suitable foraging and commuting habitats, I consider that there will be only limited impacts on these habitats which are already affected by surrounding residential uses and lack connectivity with the surrounding network. This situation would not be significantly altered by the proposed development. I would concur that the area contains a comparatively small population of common species which would be of only local (higher value) importance when considered in the context of the wider abundance of species and habitats. Accordingly, having considered the design and nature of the proposed development, I am satisfied that the construction or operational phases of the proposed development would not result in significant or unacceptable residual effects for bat population and roosts, their commuting/foraging habitat, or their flight lines.

Breeding Birds

- 11.12.12. Bird surveys were undertaken on 6th May 2022 and 1st June 2022. A range of common species were observed in the site and surrounding areas and the EclA classifies the lands as being of local importance (higher value).
- 11.12.13. The EclA highlights the lack of impacts on suitable habitats for nesting species (i.e. sand martin and kingfisher) due to the absence of wetland areas adjacent to the earth banks on site. It also highlights that the eastern treeline will not be removed

and additional landscaping will enhance foraging and breeding conditions. The report outlines that birds are likely to acclimatise to short-term construction disturbance at this urban location to avoid significant effects. To protect breeding birds, vegetation will not be removed between 1st March to 31st August and otherwise vegetation will be inspected by a suitably qualified ecologist prior to any removal.

11.12.14. I note that observers have raised concerns about the impact of the proposed development on birds. However, I would accept that the site and surrounding area contains only a small population of common species which would be classified as only local importance (higher value). The proposed development will not involve significant habitat loss and I am satisfied that the proposed development would not result in significant or unacceptable residual effects on breeding birds as a result of the construction or operational phase.

Wintering Birds

11.12.15. The report outlines that the site is of good suitability for foraging wintering (non-SCI) passerine bird species. It states that this will benefit from additional landscaping at operational stage and the effects of habitat loss and are not considered significant, while wintering (non-SCI) birds are also likely to acclimatise to short-term construction disturbance at this urban location to avoid significant effects.

11.12.16. I note that observers have raised concerns about the impact of the proposed development on birds. However, I would concur that construction stage of the development is likely to have temporary and non-significant impacts on the availability of suitable habitat, and that that wintering birds would be likely to acclimatise to temporary construction disturbance given the location of the site in an existing urbanised environment. I would also acknowledge that the proposed landscaping will provide foraging opportunities for wintering birds, and I am satisfied that there would be no significant or unacceptable effects on wintering birds.

Otters

11.12.17. An NBDC search returned one roadkill record for Otter c. 800m north of the site, while other surveys (2018 & 2019) found evidence in close proximity to the site associated with the Barnacullia/Ballyogan Stream and in the wider area associated with the Carrickmines Stream. No evidence was found during site surveys in 2022.

Although there are potential indirect hydrological connections with the Barnacullia/Ballyogan Stream and the Carrickmines Stream, the EclA outlines that any associated Otter populations would not form part of the SAC network and would not be likely to be in the region of 1% of the national population. Accordingly, it classifies the local Otter population as being of 'county importance'.

11.12.18. The EclA refers to the Hydrological and Hydrogeological Qualitative Risk Assessment included with the application which concludes that pollution related impacts on the surface water network will be negligible. Based on this, it concludes that the potential pollution impacts on prey availability for otters would be insignificant. In terms of disturbance and displacement the EclA highlights the absence of suitable otter habitat within the main site and its distance of more than 150m from the Barnacullia/Ballyogan Stream, as well as the presence of existing disturbance in this residential area. It acknowledges the potential for temporary displacement during the construction of the storage tank site to the south. However, it highlights the nocturnal habits of otters; their tolerance for human disturbance including low disturbance construction work; the likely low number of otters supported by the Barnacullia/Ballyogan Stream; and the existence of other territories within the foraging range of the local population. Mitigation measures are included to prevent accidental harm from excavations during the construction phase.

11.12.19. I acknowledge the Annex IV status of otters and their strict protection under the Habitats Directive. I acknowledge the potential for impacts on otters associated with the Barnacullia/Ballyogan Stream and the wider surface water network. However, having reviewed the Hydrological and Hydrogeological Qualitative Risk Assessment I am satisfied that pollution related impacts on the surface water network will not be significant. I am also satisfied that the more proximate construction phase works associated with the storage tank would not be of significant scale or duration and would not be likely to result in significant disturbance or displacement. Accordingly, I am satisfied that the proposed development would not result in any significant or unacceptable effects on otters.

Conclusion

11.12.20. Having regard to the foregoing, I am satisfied that the proposed development does not have the potential for significant negative effects on nationally designated

conservation areas or the quality of the surrounding hydrological and hydrogeological regime and would not result in significant habitat loss at any geographic scale. I am also satisfied that there will be no significant negative effects on fauna, including those species (bats and otters) included in Annex IV of the Habitats Directive. Suitable mitigation measures have been incorporated into the proposal and subject to compliance with same I conclude that there will be no significant residual ecological effects as a result of the proposed development. The potential effects on European Sites are discussed separately in section 13 of this report.

11.13. Other Matters

Notification to Prescribed Bodies

11.13.1. Observers have raised concerns that the application was not appropriately notified to prescribed bodies. In particular, there are concerns that statutory authorities have not confirmed the availability of adequate social/community and physical infrastructure to serve the proposed development. The Board should note that as part of the pre-application consultation, the applicant was informed pursuant to Article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017 of which prescribed authorities should be notified, namely Irish Water and DLR County Childcare Committee. The applicant has confirmed that the specified authorities have been notified in accordance with section 8(1)(b) of the Act of 2016 and I am satisfied that there is sufficient information on the file for the purpose of the Board's decision. I have addressed the issues of social/community and physical infrastructure throughout this report, and I have no objection in this regard subject to conditions.

Regulation of Commercial Institutional Investment in Housing

11.13.2. In May 2021, the Minister published Guidelines for Planning Authorities on the Regulation of Commercial Institutional Investment in Housing. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development that is not specified as being for 'build-to-rent' purposes. Accordingly, these conditions do not apply to the proposed BTR development.

Energy

- 11.13.3. Some observers have raised concerns that the proposed development will generate additional energy demands which will put further pressure on grid capacity. As previously outlined, the application confirms that the scheme will be fully compliant with Part L of the Building Regulations and the design and layout aims to maximise solar orientation. It is accompanied by a Sustainability Report which outlines the various efficiency measures incorporated into the proposed design, which I consider to be acceptable.
- 11.13.4. Given the comparatively limited scale of the development, I am satisfied that the impact on energy demand and the capacity of the grid will be minimal. The connection applications to the relevant utility operators will facilitate the protection of capacity where necessary, as is normal in the case of planning applications.

Site Management

- 11.13.5. Observers have raised concerns that the proposed scheme would be privately managed while being surrounded by publicly managed lands. The application includes a 'Taking in Charge Map – Site Plan' which shows that only the existing lands owned by DLRCC would be taken in charge on completion. It states that no land within the applicant's ownership would be taken in charge.
- 11.13.6. I would acknowledge the value in having adjoining lands under the same management, particularly in the event of the removal of Block E which would facilitate continuous open space between private and public lands. The Planning Authority outlines that the lands in DLRCC ownership will not be 'taken in charge' and that the works on these lands shall be carried out under license from DLRCC, which I consider will satisfactorily address any legal consent issues as raised by the observers. The CE Report also outlines that the underground storage tank site should remain publicly accessible, which I consider to be appropriate. I am satisfied that these matters can be agreed by condition of any permission.

Inaccuracies

- 11.13.7. I have previously outlined observers' concerns about inaccuracy in terms of the drawings, images, and details submitted with the application. In response I would acknowledge that some images in reports supporting the application are not

consistent with the detailed drawings. This includes the retention of a 5th floor level in Block F in some conceptual images, including the Design Statement. However, the detailed floor plans and elevation drawings outline the actual design and extent of the proposed development, and I am satisfied that this adequately clarifies the matter. Furthermore, I confirm that the accurate design of the proposed development has been applied in the assessment of the application and I am satisfied that any inaccuracies have not significantly affected third-party opportunities or the assessment and determination of the application by the Board.

11.13.8. I would also highlight that there are inherent limitations in the accuracy of illustrating surrounding development. It should be accepted that not all surrounding development can be shown with absolute accuracy. However, I am satisfied that the application has appropriately shown the nature and extent of all surrounding development for the purposes of the assessment of the application and the making of the Board's decision.

11.13.9. In terms of the historical use of the site, some observers have outlined that the application form omits to mention the past use of the site for dumping spoil and landfill. On inspection of site, I noted that the lands have been temporarily used as a construction compound in connection with previously constructed developments. This has involved the storage and mounding of some building materials and earthworks etc. However, this has been at a very minor and insignificant scale, and I do not consider that this temporary ancillary use amounts to the use of the land for dumping. Accordingly, I have no objections in this regard.

Archaeology

11.13.10. The application includes an Archaeological Desktop Assessment which outlines that no recorded monuments or features of cultural heritage are located within the application site. The Zone of Archaeological Potential/Zone of Notification for a burnt mound (DU026-161) extends into the southwest portion of the proposed attenuation tank site, although the known archaeological remains are separated by the adjoining watercourse. The lands associated with the application have been subject to previous development disturbance and archaeological monitoring. However, it acknowledges that the attenuation site retains some archaeological potential, and it recommends that groundworks at the site be subject to archaeological monitoring

during construction. I am satisfied that this will satisfactorily address any archaeological potential associated with the proposed development.

11.14. **Material Contravention**

Legislative Provisions

11.14.1. Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 outlines that the Board may grant permission for an SHD even where the proposed development materially contravenes the Development Plan or LAP concerned, except in relation to the zoning of land. In any such case, the Board must be satisfied that the provisions of section 37(2)(b) of the Act of 2000 would apply, which are as follows:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

11.14.2. The application includes a 'Material Contravention Statement', the grounds for which have been outlined in section 7 of this report. This statement has been referenced in the public notices for the application. I note that the statement refers to 'potential' material contraventions, but I consider that there is no legislative impediment to this precautionary approach.

11.14.3. Some observers contend that subsequent to the adoption of the new CDP in compliance with the NPF, the RSES and Section 28 Guidelines, it is no longer

possible to refer to these documents as justification for a material contravention. I accept that the new CDP 2022-2028 has had regard to these policy/guidance documents to an appropriate extent at the strategic plan-making level. However, at a more detailed planning application level, I am satisfied that a material contravention can still be considered by reference to these documents, where appropriate. These provisions continue to be legislated for under sections 9(3) and 9(6) of the Act of 2016, irrespective of whether a new Development Plan has been adopted or not.

11.14.4. The relevant 'material contravention' issues are now discussed below.

Building Height

11.14.5. In section 11.4 of this report, I have outlined my conclusion that the site is covered by BHS1 of the Development Plan which does not place any specific limit on building height. Therefore, I do not consider that there is a material contravention in this regard. However, in the event that the Board determines that there is a material contravention, I would suggest that the following applies.

11.14.6. In relation to s. 37(2)(b)(i), I note the classification of the proposed development as 'strategic housing development' as per the definition in section 3 of the Act of 2016, and its significant scale comprising 438 residential units. As part of the Dublin MASP contained in the RSES, it would be along the 'Metrolink – LUAS' strategic development corridor where upgrades to the existing LUAS Green line aim to support new and emerging mixed-use districts, new residential communities, and Strategic Employment locations in the surrounding area. And in Figure 2.11 of the CDP, the application site is specifically identified to support 'Compact Growth', which is one of the strategic aims of the CDP.

11.14.7. Having regard to this strategic context, together with the current national housing shortage and national policy to substantially increase national housing output as set out in 'Housing For All', I consider that the proposed development would be of strategic and national importance and that a material contravention would comply with the terms of section 37(2)(b)(i) of the Act of 2000.

11.14.8. Regarding s. 37(2)(b)(ii), the applicant has not put forward any argument for material contravention on the grounds of conflicting or unclear objectives. The applicant does outline doubt as to whether the provisions of BHS1 or BH3 apply to the site, and I have addressed this in section 11.4 of this report. The Board may also feel that there

is a lack of clarity on this matter. However, I have concluded that BHS1 applies and therefore I do not consider that the provisions of section 37(2)(b)(ii) apply.

11.14.9. In relation to s. 37(2)(b)(iii), the applicant contends that the proposal complies with SPPR 3 and section 3.2 of the Building Height Guidelines, as well as the NPF and RSES objectives which seek to promote increased density and compact growth at accessible locations. I note that the Building Height Strategy of the CDP contends that SPPR3 has been incorporated and that its ability to materially contravene CDP/LAP policy is defunct. However, consistent with my previous opinions, I do not consider that the provisions of the Building Height Guidelines (including SPPR3) are precluded in the event of a new CDP being adopted. Section 3 of the Guidelines addresses scenarios both where the plan pre-dates the guidelines and/or where a plan has taken clear account of the requirements outlined in chapter 2 of the Guidelines. In either case, I consider that SPPR3 can be considered by the Board.

11.14.10. I have already addressed this matter in sections 11.3 and 11.8 of this report. Subject to conditions, and while taking into account the wider strategic and national policy parameters set out in the NPF and the *Building Height Guidelines*, I consider that the proposal complies with the criteria set out in SPPR3 and section 3.2 of the Guidelines. I also consider that the proposed height would be consistent with national/regional policy and guidance (i.e. NPF, RSES, Apartments Guidelines, Sustainable Residential Development Guidelines) to increase density along public transport corridors. Accordingly, I am satisfied that a material contravention would comply with the terms of section 37(2)(b)(iii) of the Act of 2000.

11.14.11. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(iv) and I am not aware of any applicable cases since the making of the Development Plan. Cases such as the previous Board decision (ABP Ref. 309828-21) on this site and the decision to grant APB Ref. 307415 (located c. 300m east of the application site) were made under the previous Development Plan and cannot be considered in light of the making of a new Development Plan.

Separation Distances

11.14.12. I have addressed the matter of separation distances in sections 11.5 and 11.6 of this report. Despite the general Development Plan standard of 22 metres, I consider that it includes flexibility to allow reduced distances depending on layout, size, design,

orientation, location, and daylight availability. I have considered all these matters and have concluded that the proposals are acceptable in this case. Accordingly, I do not consider that the proposed development materially contravenes the CDP in relation to separation distances.

11.14.13. In the event that the Board determines that a material contravention does apply, I have previously outlined that the provisions of section 37(2)(b)(i) would apply. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(ii) and I do not consider that there are conflicting or unclear objectives.

11.14.14. Furthermore, in section 11.5 of this report, I have outlined that reduced separation distances would be supported by national policy and guidance provisions (i.e. NPO13 of the NPF, section 2.23 of the Apartments Guidelines, and section 7.4 of the Sustainable Residential Development Guidelines) which recommend a more flexible performance-based application of any such standards. Accordingly, I am satisfied that the provisions of section 37(2)(b)(iii) would apply in this case.

11.14.15. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(iv) and I am not aware of any applicable cases since the making of the Development Plan.

Public Open Space

11.14.16. In section 11.9 of this report, I have outlined my opinion that the proposed development would not materially contravene the CDP public open space provisions given the discretion that applies on the matter. Furthermore, I have outlined that the removal of Block E and/or the payment of a financial contribution in lieu of any perceived shortfall gives the Board alternative options to favourably consider compliance with the requirements.

11.14.17. In the event that the Board determines that a material contravention does apply, I have previously outlined that the provisions of section 37(2)(b)(i) would apply. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(ii) and I do not consider that there are conflicting or unclear objectives.

11.14.18. In relation to section 37(2)(b)(iii) of the Act, I note that the Sustainable Residential Development Guidelines (section 4.21) provides for flexibility in public open space standards, and also for the payment of a contribution in lieu where it is deemed that

there is a shortfall in the provision of public open space. I consider that the application site is acceptably close and accessible to the facilities of the city and other town centres, as well as public parks, coastal amenities, and other natural amenities to warrant a relaxation of standards and/or a financial contribution towards any shortfall. Therefore, I consider that the provisions of section 37(2)(b)(iii) of the Act would apply in relation to any material contravention regarding public open space.

11.14.19. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(iv) and I am not aware of any applicable cases since the making of the Development Plan.

Unit Mix

11.14.20. I have already addressed this matter in section 11.5 of this report. By virtue of the Ministerial Direction (28th September 2022) I have concluded that the CDP does not include a specific mix requirement for BTR developments and that, therefore, there can be no material contravention of the Plan.

11.14.21. In the event that the Board determines that a material contravention does apply, I have previously outlined that the provisions of section 37(2)(b)(i) would apply. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(ii) and I do not consider that there are conflicting or unclear objectives.

11.14.22. Under s. 37(2)(b)(iii), the applicant contends that the proposal complies with SPPR 8(i) of the Apartments Guidelines, which states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. I would concur with this position and, accordingly, I consider that any material contravention regarding unit mix would comply with the terms of section 37(2)(b)(iii) of the Act.

11.14.23. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(iv) and I am not aware of any applicable cases since the making of the Development Plan.

Other Issues

11.14.24. Throughout this report I have addressed various observations which contend that the proposed development would materially contravene other aspects of the Development Plan. These aspects have included issues relating to zoning

objectives, Objective PHP28, density standards, Architectural Conservation Areas, Masterplanning, Urban Design Framework, dual aspect ratios, private open space, car-parking, and daylight/sunlight standards. As outlined in this report, I do not consider that there is a material contravention of these elements or any other elements of the Development Plan.

Conclusions on Material Contravention

11.14.25. In conclusion, I do not consider that the proposed development would materially contravene the Development Plan. However, if the Board does determine that there is a material contravention, I consider that permission can be granted in accordance with the provisions of section 37(2)(b) of the Act of 2000 as outlined throughout this section of my report.

11.15. Local Authority Recommendation

11.15.1. Section 9.1.12 of this report outlines the Planning Authority's recommendation that the proposed development should be refused. The recommended reasons for refusal are largely based on an excessive size, scale, and height of development, and raise several other issues which are addressed as follows:

- Sections 11.4 and 11.8 of this report address the questions of size, scale, and height. I have outlined that the size, scale, and height of the proposed development is appropriate for this accessible intermediate urban location where local, regional, and national policy seeks to promote compact sustainable development at increased height and density.
- Sections 11.5, 11.6, and 11.7 of this report address the proposed standard of residential amenity and the impacts of the proposed development on existing residential amenity and property value. I consider that the proposal would provide an acceptable standard of amenity for the prospective occupants and would not result in any unacceptable impacts on surrounding properties.
- Section 11.8 of this report assesses the design of the proposed development and its impact on visual amenity and the character of the area. I acknowledge that the proposal is of significant scale and height compared to established development. However, I am satisfied that it would satisfactorily integrate with its natural and

built environment and would not detract from the character or amenities of the area in any unacceptable way.

- Section 11.8 of this report assesses the layout of the proposed development and I have identified concerns in relation to permeability and legibility. However, I consider that these matters can be satisfactorily addressed subject to conditions including the removal of Block E and the realignment of cycle connections to the southeast corner of the site.
- Sections 11.5 and 11.9 of this report assess the nature and extent of social, community, and commercial infrastructure, both within the proposed development and in the wider surrounding area. I am satisfied that the proposed mix of uses and the level of existing and proposed facilities is sufficient to cater for this residential development which is on lands zoned for residential uses.

11.15.2. The Planning Authority also recommends conditions to be attached in the event of a grant of permission, the majority of which are standard in nature. However, I would comment on the following suggested conditions:

- 2(a) – I do not consider a reduction to 6 storeys is necessary.
- 2(b) – I agree that Block E should be omitted.
- 2(c & d) - I consider that there is a sufficient level of existing and proposed resident / community / commercial facilities and I do not consider that amendments are necessary in this regard.
- 24 – I have no objection to proposals for the prevention of overflow from the foul tank entering surface water assets being clarified.
- 25 – I have no objection to proposals for the protection of properties from excessive surface water overland flows being clarified.
- 32 – As previously outlined in this report, I am satisfied that the application has completed an adequate Road Safety Audit for this stage of the process.
- 34 & 35 – I have no objection to the agreement of pedestrian and cycle linkages.
- 36 – I agree that additional cycle parking spaces should be provided, and I have no objection to agreement by condition.

- 38 – I agree that additional visitor / servicing / drop-off parking spaces should be provided, and I have no objection to agreement by condition.

11.16. **Planning Assessment Conclusion**

- 11.16.1. As outlined in the foregoing assessment, I consider that higher density residential development would be acceptable in principle at this location having regard to the zoning of the site and its location in close proximity to public transport infrastructure and a wide range of other facilities and services. The proposed scheme would provide an acceptable level of residential amenity for prospective occupants and would not seriously detract from the residential amenities of existing development in the surrounding area. Furthermore, I am satisfied that the standard of physical and social/community infrastructure in the area would not justify a refusal of the proposed development, and that the proposed development would not result in any unacceptable ecological impacts.
- 11.16.2. I would have no objection to the height and density of development proposed and, subject to the removal of Block E, I consider that the design and layout of the proposed development would be in accordance with relevant local and national planning policy/guidance. The proposed development would satisfactorily integrate with its natural and built environment and would not detract from the character or amenities of the area in any unacceptable way.
- 11.16.3. Furthermore, in my opinion there is sufficient information on file to allow for a proper and full assessment of the case and I do not consider that there is a compelling case for an oral hearing in this instance. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not recommend that an oral hearing should be held.

12.0 **Environmental Impact Assessment (EIA) Screening**

12.1. **Introduction**

- 12.1.1. The application includes an EIA Screening Report prepared by AWN Consulting. The report aims to provide the Board with the information required under Schedule 7A of the Planning and Development Regulations 2001, as amended (the 2001 Regs), having regard to the criteria set out in Schedule 7 of the 2001 Regs. This section

outlines my assessment of the need for an Environmental Impact Assessment Report (EIAR), which will enable the Board to make a determination on the matter.

12.2. Mandatory Thresholds

- 12.2.1. Schedule 5 Part 2 of the 2001 Regulations provides that mandatory EIA is required for a range of development classes. Those with relevance to the proposed development are discussed in the following sections.
- 12.2.2. Under Class 10 (b)(i) the threshold relates to the construction of more than 500 dwelling units. The proposed development involves the construction of 438 units and therefore does not exceed the mandatory threshold.
- 12.2.3. Class 10(b)(iv) relates to *'Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use)'*. I do not consider that the application site is within a 'business district'. I consider that the site is within part of a 'built-up area' where the 10ha threshold applies. The application site has a total area of 3.39ha and does not therefore exceed the applicable threshold.
- 12.2.4. Class 13(a) refers to the following:
- Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:*
- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of part 2 of this Schedule, and*
 - (ii) result in an increase in size greater than 25 per cent, or an amount equal to 50 per cent of the appropriate threshold, whichever is greater.*
- 12.2.5. In this regard, the Board must first consider whether the proposed development is a *'change or extension of development already authorised, executed or in the process of being executed'*. Having regard to the planning history of the site and adjoining lands, it is clear that the application site (i.e. Sector 3) formed part of a larger development which was permitted under ABP Ref. PL06D.239332 (P.A. Reg. Ref.

D10A/0440). However, it would appear unclear as to whether that original permission is still '*authorised*' given the apparent legal challenge to DL RCC's decision to refuse the extension of duration of the permission. The application outlines that the original permission has been partially but not fully '*executed*' through the completion of 289 units in sectors 1 & 2. And there is again lack of clarity on whether the original development could be considered to be '*in the process of being executed*' given the doubt about whether it has expired or not and the fact that construction has ceased.

- 12.2.6. I have previously addressed similar matters regarding the relationship between the original permission and the current application in sections 11.6 to 11.12 of this report. I have acknowledged that the site was part of the original application (which was subject to EIA) and that it would still be connected through shared access and services etc. However, I have concluded that the application should be dealt with on its merits as a standalone development rather than a change or an extension to the original permission. The fact that it shares access and services is certainly not an untypical arrangement for adjoining residential developments. This commonly and appropriately occurs across properly planned residential areas, irrespective of whether adjoining developments are part of the same permission or ownership. Indeed, this has been the case for various other developments in the wider Aiken's Village residential area. In essence, new residential developments commonly result in the 'extension' of other adjoining developments but are not considered as such for the purposes of EIA screening. To do otherwise would effectively and unreasonably result in an EIA requirement for most urban residential developments.
- 12.2.7. If the Board considers the application to be a change or extension of development already authorised, executed or in the process of being executed, then sub-sections (i) and (ii) of Class 13(a) must be considered. In terms of sub-section (i), the proposed 438 no. units would have to be added to the 289 no. completed houses, resulting in 727 no. units which would exceed the threshold of 500 units as per Class 10 (b)(i). It would also increase the number of permitted units (355) by more than 25 per cent and by more than 50 per cent of the appropriate threshold.
- 12.2.8. In conclusion however, I consider that the proposed development should be assessed as a new standalone application, rather than a change or extension of development already authorised, executed or in the process of being executed. I conclude that the development is of a type set out in Part 2 of Schedule 5 of the

2001 Regulations which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development. Accordingly, I do not consider that mandatory EIA is required.

12.3. Sub-Threshold Development

12.3.1. Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be required for *‘Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’.*

12.3.2. Given that the proposed development is a sub-threshold development, Article 299B (1)(b)(i) of the 2001 Regulations requires the Board to carry out a preliminary examination of, at the least, the nature, size or location of the development. The proposal is predominantly residential in nature. It includes 438 dwelling units, which represents a large proportion (87%) of the applicable 500-unit threshold (as per Class 10 (b)(i)). Furthermore, the application includes a childcare facility, supporting residential facilities, and associated site works and services. Accordingly, based on this preliminary examination and the significant size of the proposal in comparison to the mandatory threshold, I consider that there is significant and realistic doubt regarding the likelihood of significant effects on the environment arising from the proposed development.

12.3.3. I am satisfied that the applicant’s EIA Screening Report and the other information submitted with the application has provided the information specified in Schedule 7A of the 2001 Regulations, and that the relevant information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations. I am also satisfied that the application has provided any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, as well as a statement under Article 299B(1)(b)(ii)(II)(C) indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation have been taken into account.

12.3.4. Accordingly, in accordance with Article 299B (2)(b) of the 2001 Regulations, the Board is required to carry out an examination of, at the least, the nature, size or

location of the development for the purposes of a screening determination regarding the likelihood of significant effects on the environment.

12.4. Screening Determination for EIA

- 12.4.1. In carrying out a screening determination under Article 299B (2)(b) of the 2001 Regulations, the Board is required to have regard to the criteria outlined in Article 299C (1)(a). As previously outlined, I am satisfied that the application contains sufficient information in accordance with these criteria. I have completed an EIA screening assessment as outlined in Appendix 2 of this report.
- 12.4.2. In terms of characteristics, the development would be consistent with the existing and planned residential uses in the area. I acknowledge that the proposal is of a significantly greater scale than some immediately adjoining development and that it will cause changes to the locality, but I do not consider that it would have significant effects on the visual amenity, landscape, or character of the area. The use of natural resources, materials, and substances would be typical of such development and would not result in significant effects for human health or the environment. The construction stage has the potential for contaminants, noise, dust, and other disturbances, but I am satisfied that these potential impacts will be satisfactorily addressed through the CEMP. There would be an increased local population, but I am satisfied that this has been appropriately planned for and would be adequately serviced by existing and planned social/community facilities.
- 12.4.3. The proposed development is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The EclA and AA Screening report has considered the proximity and potential for connections to such designated/ecological sites in the wider surrounding area and I am satisfied that there would be no significant effects on same. Similarly, I am satisfied that it has been demonstrated that there will be no significant effects on protected, important, or sensitive species of flora or fauna which use areas on or around the site. Subject to archaeological monitoring, there are no significant landscape, historic, or cultural features likely to be affected by the development. The site and surrounding area do not contain high quality or scarce resources and the surrounding water resources are not likely to be significantly affected. There would not be any significant congestion effects on key transport

routes and the development would be suitably designed and managed to promote sustainable transport modes, thereby avoiding significant environmental problems such as excessive transport emissions etc. Surrounding land use and facilities have been considered and I do not consider that there would be any significant effects as a result of the proposed development.

- 12.4.4. The potential cumulative effects with existing and approved development have been considered, for both the construction and operation phase. The majority of existing/planned development is of a similar residential nature and includes potential cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.
- 12.4.5. I note that the observers have raised concerns that the original permission (P.A. reg. ref. D10A/0440) was subject to EIA. They contend that a previous EIA development cannot be severed and that it is also unauthorised development. I have previously outlined my view that the development should not be deemed unauthorised by the Board. And notwithstanding the fact that the original permission was subject to EIA, I consider that the current application can be determined and that the environmental effects of same have been appropriately considered in this EIA Screening assessment.
- 12.4.6. The observers also raise concerns about significant environmental effects on population and human health as a result of failure to meet appropriate daylight/sunlight standards and the increased pressure placed on services in the area. I have considered these matters in sections 11.7 and 11.9 of this report and I do not consider that the project would result in any effects that would significantly impact on population or human health.
- 12.4.7. Having regard to the foregoing, I have concluded that the proposed development would not be likely to have significant effects (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

13.0 **Appropriate Assessment Screening**

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

13.1. **Background to the application**

13.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Scott Cawley Ltd. consultants. The report concludes that the possibility of any significant effects on any European Sites, whether arising from the project alone or in combination with other plans and projects, can be excluded, and that an Appropriate Assessment and preparation of a Natura Impact Statement is not required.

13.1.2. Having reviewed the documents, drawings and submissions included in the application, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

13.1.3. 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 would have any possible interaction that would be likely to have significant effects on a European Site(s).

13.2. **Description of the development**

13.2.1. A detailed description of the development is outlined in section 3 of this report. In summary, it includes the construction of 438 Build To Rent apartments in 9 blocks with associated resident amenity space / communal areas, a childcare facility, open spaces, parking facilities, along with associated road works, site works, and services including an underground foul water storage tank. The water services and drainage arrangements have been outlined in section 11.11 of this report.

13.2.2. The site has a total area of 3.39 ha and is located within the existing Aiken's Village residential area. It primarily comprises habitats classified as Amenity Grassland, Dry Meadows and Grassy Verges, Spoil and Bare Ground, and Recolonising Bare

Ground. The site is mainly surrounded by residential properties and associated open space areas.

13.3. **Submissions and Observations**

13.3.1. The submissions and observations received during the application process have been outlined in sections 8, 9 and 10 of this report. The Planning Authority and Prescribed Body submissions have not raised any specific concerns in relation to Appropriate Assessment. However, the observers have submitted that the applicant's AA Screening is inadequate for the following reasons:

- It contains inadequate information, reasoning, methodology, site-specific surveys, and scientific expertise.
- It does not consider all aspects of the development including the construction phase and cumulative impacts with other projects.
- It impermissibly has regard to 'mitigation measures'.
- Reliance on the Ringsend WWTP is flawed.

13.3.2. In response I consider that the AA Screening Report contains adequate information and methodology to facilitate AA Screening, the determination of which is ultimately the responsibility of the Board. It considers all aspects of the construction and operational phases, as well as the potential cumulative / in-combination effects of other plans and projects. The question of reliance on mitigation measures is discussed in later sections of this report. Finally, the observers' reference to the Ringsend WWTP would appear to be a misunderstanding given that the proposed development would connect to Shanganagh WWTP. Notwithstanding this, the suitability of the WWTP connection will be discussed in this section.

13.4. **European Sites**

13.4.1. The applicant's AA Screening Report considers European Sites in the vicinity of the site (as shown in Figure 2 and Appendix 1 of the report) and considers potential connections between the application site and those European Sites. On the basis of the surface water discharge (via the Barnacullia/Ballyogan Stream to ultimate outfall in Killiney Bay) and foul water discharges (via Shanganagh WWTP and discharge to Killiney Bay), it outlines that there are potential hydrological connections between the

proposed development and the European Sites within or in proximity to Killiney Bay. It concludes that there is no connection between the proposed development and any other European Sites. I would summarise the applicant's conclusions in relation to connectivity with the European Sites in the vicinity of the proposed development (as per Appendix 1 of AA Screening Report) in the following table.

European Site	Site Code	Distance (km)	Connection
Wicklow Mountains SAC	002122	4.9	None identified
South Dublin Bay and River Tolka Estuary SPA	004024	5.1	None identified
South Dublin Bay SAC	000210	5	None identified
North Bull Island SPA	004006	9.1	None identified
North Dublin Bay SAC	000206	10.1	None identified
Glenasmole Valley SAC	001209	9.3	None identified
Wicklow Mountains SPA	004040	5.3	None identified
Rockabill to Dalkey Island SAC	003000	9.9	Potential hydrological connection via surface water / foul water discharge
Ballyman Glen SAC	000713	7.3	None identified
Knocksink Wood SAC	000725	6	Within the same Groundwater body but no potential for significant connection
Dalkey Islands SPA	004172	11.2	Potential hydrological connection via surface water / foul water discharge
Howth Head SAC	000202	14.1	None identified

13.4.2. Following on from details as previously outlined in the EclA, the AA Screening report outlines that while the Barnacullia/Ballyogan stream and the Carrickmines stream

may support otters, there is no direct hydrological connectivity between the application site and the Wicklow Mountains SAC (the closest site for which otter is a QI). Consistent with this approach, I would concur with the report's conclusion that any otters which may use the downstream water bodies are not associated with an SAC population.

- 13.4.3. Appendix III of the AA Screening Report also outlines a list of SCI wintering bird species recorded within 2km of the site in the desktop study. No dedicated wintering bird surveys were undertaken within the application site due to the habitats being deemed as very low suitability. The report acknowledges the presence of amenity grassland but concludes that its scale, nature, and geography is unsuitable for forging winter bird species. Similarly, it acknowledges the use of inland feeding sites by Light-bellied brent geese but outlines that there are no records or signs of such use within or proximate to the application site. In relation to SCI raptor species, the AA Screening Report outlines that there is no suitable habitat within the lands for hen harrier or peregrine falcon and that these species do not frequent low-rise urban areas. I would concur with the report's conclusions that the habitat on site and the surrounding area is unsuitable for SCI wintering bird and raptor species.
- 13.4.4. As previously outlined in relation to the EclA, the NBDC database search found no records for non-native invasive species within 2km of the application site and no such species were found during the field surveys.
- 13.4.5. I note that Figure 2 of the applicant's report includes Bray Head SAC (Site Code 000714), but Appendix 1 does not. In relation to hydrological connections, Bray Head SAC is located c. 11.6km to the southeast of the application site and is located within the same waterbody (Irish Sea-Killiney Bay Coastal Waterbody) as the surface water and foul water discharge points. Therefore, adopting a precautionary approach, I consider that there is a potential hydrological connection to Bray Head SAC.
- 13.4.6. With regard to hydrogeology, the Screening Report notes that Knocksink Wood SAC is partially located in the same groundwater body as the proposed development (the Wicklow Groundwater Body) and that this site is designated for groundwater dependant habitats. Having regard to the potential hydrogeological connection and the need for a precautionary approach, I consider that Knocksink Wood SAC should be included for further consideration in this AA Screening exercise.

- 13.4.7. Otherwise, apart from those sites identified in the table above, and having regard to the significant distance, barriers, and lack of connectivity with the application site, I am satisfied that there are no potential connections with any other European Sites in the vicinity. I acknowledge that there are more distant hydrological connections with other sites in the wider Dublin Bay / Irish Sea area. However, it is reasonable to conclude that the potential for hydrological effects will be adequately considered through the assessment of the more proximate European Sites in Killiney Bay.
- 13.4.8. Therefore, I am satisfied that the sites which require further screening consideration are limited to Rockabill to Dalkey Island SAC, Dalkey Islands SPA, Knocksink Wood SAC, and Bray Head SAC. The potential for significant effects on the other sites can be excluded at this preliminary examination stage.
- 13.4.9. My screening assessment will therefore focus on the impact of the proposal on the conservation objectives of the relevant European Sites and their qualifying interests as set out in the following table.

European Site	Conservation Objectives and Qualifying Interests
Rockabill to Dalkey Island SAC	To maintain the favourable conservation condition of Reefs and Harbour porpoise
Dalkey Islands SPA	To maintain or restore the favourable conservation condition of the bird species listed as SCIs: Roseate Tern, Common Tern, Arctic Tern
Knocksink Wood SAC	To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion) and Old sessile oak woods with Ilex and Blechnum in the British Isles, and to maintain the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae).
Bray Head SAC	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts, and to restore the favourable conservation condition of European dry heaths.

13.5. Potential Effects on European Sites

Habitat loss / fragmentation

- 13.5.1. The application site does not overlap or traverse any European Site and therefore there is no potential for habitat loss or fragmentation, either alone or in combination with other plans and projects. As previously outlined in section 13.4 (above), I am also satisfied that there is no potential for ex-situ impacts relating to otters or wintering SCI species.

Hydrological Impacts

- 13.5.2. I note the surface water connection between the discharge from the proposed development and Killiney Bay over c. 8.5km via the Barnacullia/Ballyogan stream, Carrickmines stream, and Shanganagh River. The surface drainage network will be designed in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and includes attenuation measures. As previously outlined in this report, the Flood Risk Assessment has outlined that there are no unacceptable risks associated with the proposed development.
- 13.5.3. A Hydrological and Hydrogeological Qualitative Assessment (HHQA) has also been appended to the applicant's AA Screening Report. It uses a conceptual site model (CSM) which allows source-pathway-receptor linkages to be identified. The main site is located c. 160m from the Barnacullia/Ballyogan stream while the storage tank site is c. 15m away. The CSM considers all potential sources of contamination for the stream during the construction and operational stages. It does not rely on any mitigation measures, and it does not consider good practice construction design measures such as SuDS in order to provide a worst-case scenario. The HHQA concludes that, even disregarding the SuDS design measures, there will be imperceptible impacts to the water bodies due to stormwater emissions from the site infrastructure to the wider drainage network. The applicant's WFD Assessment confirms that there is no potential for adverse or minor temporary/long-term or localised effects on surface water bodies and that there will be no significant change in water body status or prevention of attainment or potential to achieve future good status or to meet the requirements and/or objectives in the second River Basin management Plan (RBMP) 2018-2021 or Draft third RBMP 2022-2027.

- 13.5.4. I acknowledge that the attenuation, SuDs, and interceptor measures may involve the removal of contaminants which would reduce the potential harmful effects of the development on European Sites. However, I consider that these are best practice stormwater drainage design measures which have been incorporated into the project as standard features, inherent in such a project, irrespective of any effect on European Sites. Accordingly, I do not consider these to be 'mitigation measures' for the purpose of AA Screening. In any case, the applicant's assessment has disregarded the measures and still concludes that there will be imperceptible hydrological impacts. I consider the applicant's assessment to be suitably robust and comprehensive and I accept its conclusions. Furthermore, in a precautionary approach I am satisfied that the aforementioned surface water design measures could be considered to give further protection against potential harmful effects.
- 13.5.5. I acknowledge the limited potential for construction-related surface water/pollution run-off, and I am satisfied that this would be satisfactorily addressed by best-practice construction management measures such as outlined in the CEMP. Even if any contaminants related to construction did enter the surface water network, I would accept that any such contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently dispersed and diluted within the receiving surface watercourses and within the marine environment of Killiney Bay to avoid any significant effects on European Sites.
- 13.5.6. The foul sewer network has been designed in accordance with Irish Water requirements and includes an underground overflow storage tank to reduce discharge and flood risk during extreme storm events. The peak wastewater discharge has been calculated at 14.092 l/s and the maximum daily organic load is calculated as 6.12 PE. Discharge will be treated at Shanganagh WWTP under EPA licence prior to outfall to the Irish Sea.
- 13.5.7. The Annual Environmental Report (AER) 2021 for Shanganagh WWTP shows that it is operating at a maximum hydraulic load of 84,297m³/day, which is significantly less than the constructed capacity of 108,000m³/day. The AER also highlights that it is operating under a peak load of 129,008 PE (per week) which is significantly less than the designed capacity of 186,000 PE. Furthermore, the Southwestern Irish Sea – Killiney Bay waterbody is currently classified as 'high' WFD status.

- 13.5.8. The applicant's report acknowledges that without the attenuation of the underground foul tank or in the event of pump/tank failure there is potential for a direct pathway between the proposed development and the Barnacullia/Ballyogan stream. The CSM considers this potential worst-case contribution to be low (14.092 l/s) and that there is significant attenuation and dilution capacity in the river network before reaching the Irish Sea. Accordingly, the AA Screening Report concludes that the development will have no measurable impact on water quality of waterbodies that host European Sites (i.e. Rockabill to Dalkey Island SAC, Dalkey Islands SPA, Bray Head SAC).
- 13.5.9. Regarding impacts on the WWTP, I accept that the worst-case effluent discharge from the proposed development amounts to c. 1% of the WWTP licenced discharge. I do not consider that this additional discharge would result in significant effects on the adjoining water body status or the associated European Sites.
- 13.5.10. I would also accept that the AA Screening report has effectively discounted the proposed underground foul storage tank and considers a worst-case scenario with regard to potential foul water overflow/flood impacts. Notwithstanding this, I consider that the report satisfactorily demonstrates that even this worst-case scenario would have no measurable impact on water quality. I consider that the storage tank has been included as a measure to reduce discharge and flood risk during extreme storm events, and that it would be inherent in such a project irrespective of any effect on European Sites. Accordingly, I do not consider it to be 'mitigation measure' for the purpose of AA Screening and that, in a precautionary approach, the storage tank could be considered to give further protection against potential harmful effects.
- 13.5.11. I also note my earlier recommendations for the replacement of the detention basin associated with the underground tank (see section 11.11 of this report). However, I would highlight that the likelihood of this detention basin being utilised is low, and that the worst-case scenario adopted by the applicant disregards the foul storage tank infrastructure and still does not result in significant hydrological effects. Accordingly, I do not consider that the suggested amendments to the storage tank/detention basin would alter my conclusions in this regard. I acknowledge that the details of alternative arrangements would have to be agreed (in accordance with Irish Water standards) but I do not consider that this would constitute any significant *lacunae* in information as the AA Screening conclusion does not rely on the storage tank measures in the first instance. Therefore, notwithstanding the agreement of

alternative details in this regard, I do not consider that there would be any significant additional impacts in terms of foul discharge or that it would impact on my conclusion regarding effects on water quality and associated European Sites.

- 13.5.12. In terms of the potential in-combination hydrological effects of other plans and projects, the AA Screening report outlines the need for all plans and projects to comply with the requirements of the relevant RSES, the DLRCC CDP, and the Wicklow CDP regarding the protection of water quality and European Sites.
- 13.5.13. The CSM considered the in-combination effects of the proposal and other permitted developments on surface water quality and concluded that it will not be significant due to the low potential chemical and sediment loading and the dilution effects through the river network. It also considered cumulative events such as the release of sediment laden water combined with a hydrocarbon leak and still concludes that there is adequate assimilation and dilution capacity.
- 13.5.14. The CSM considered the cumulative or in-combination effects of sewage discharge from other permitted/planned developments which will be discharged to the Shanganagh WWTP. It concludes that the discharge size will not be significant having regard to the need for the WWTP to comply with the requirements of the WFD, licensing requirements, and other overarching land use plans; the need for other developments to comply with SuDS to manage the run-off rate; and the natural characteristics of this coastal waterbody which result in enriched water rapidly mixing and degrading such that there is no appreciable effect on water quality at the European Sites.
- 13.5.15. Having regard to the foregoing, I am satisfied that the potential hydrological effects of the proposed development have been considered for the construction and operational stage, and for the potential cumulative and/or in-combination effects of other plans and projects. Having regard to the predicted discharges from the proposed development and other plans and projects, together with the assimilative capacity of Irish Water infrastructure and surrounding waterbodies, I am satisfied that the proposed development would not have significant hydrological effects on water quality or any associated European Sites.

Hydrogeological Impacts

13.5.16. I note that Knocksink Wood SAC is partially within the same groundwater body (Wicklow GWB) as the proposed development. However, as outlined in the AA Screening Report, I would acknowledge that the proposed development does not involve significant dewatering or operational activities which would likely alter groundwater levels. The CSM concludes that the potential for impact on the aquifer is low due to the absence of any bulk chemical storage as well as the overburden thickness, the low permeability of till, and a lack of fracture connectivity within the granite bedrock aquifer which will minimise the rate of off-site migration for any indirect discharges to ground. The applicant's WFD Assessment confirms that there is no potential for adverse or minor temporary or localised effects on the Wicklow GWB and that there will be no significant change in water body status or prevention of attainment or potential to achieve the requirements and/or objectives in the second RBMP 2018-2021 or Draft third RBMP 2022-2027. Furthermore, there is a significant separation distance of some 6km from the application site and I consider that any pollutants would be sufficiently dispersed and diluted if they were to reach the SAC site. Accordingly, I would accept that there is no potential for significant change in groundwater status or linkage through the aquifer that would have the potential to significantly affect the Knocksink Wood SAC or any European Sites, either alone or in-combination with other plans and projects.

Cumulative/in-combination impacts

13.5.17. I have considered the potential cumulative/in-combination impacts of the proposed development and other plans and projects throughout this section. I note that the project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Shanganagh WWTP and surface water discharge.

13.5.18. Ultimately, the expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, and in this area, by the Dun Laoghaire Rathdown Development Plan 2022-2028. This has been subject to Appropriate Assessment by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any

European Sites. In this context the application is for a suitably scaled residential development on zoned serviced lands in an urban area. As such, I am satisfied that the proposal will not generate significant demands on the existing infrastructure for foul water and surface water.

- 13.5.19. Having regard to the foregoing, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development.

13.6. **Mitigation Measures**

- 13.6.1. In response to observations received, I confirm that no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. I consider that a worst-case scenario approach has been undertaken in relation to hydrological effects, whereby measures such as attenuation, SuDs, interceptors, and the underground storage tank have been disregarded in the applicant's assessment. I am satisfied that these can be considered standard best practice measures and/or measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site and therefore could be considered in the AA Screening determination. In any case, it has been satisfactorily demonstrated that the proposed development does not rely on these measures to avoid the likelihood of significant effects on European Sites.

13.7. **AA Screening Determination**

- 13.7.1. The proposed development has been considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on Rockabill to Dalkey Island SAC, Dalkey Islands SPA, Bray Head SAC, Knocksink Wood SAC, or any European Sites, in view of the sites' conservation objectives, and Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required.

13.7.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management and surface water management;
- The dilution capacity within the existing drainage network and the receiving water environment in Killiney Bay;
- The capacity of the Shanganagh Wastewater Treatment Plant to facilitate development in compliance with the provisions of the Water Framework Directive.

14.0 Recommendation

Having regard to the foregoing, I recommend that permission be **GRANTED** for the proposed development, subject to conditions, and for the reasons and considerations set out in the Draft Order below.

15.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 6th day of September 2022 by Ironborn Real Estate Ltd., care of Stephen Little & Associates of 26/27 Upper Pembroke Street, Dublin 2.

Proposed Development comprises of the following:

- (a) 438no. 'Build-to-Rent' apartment units (154no. 1 bedroom units and 284no. 2 bedroom units) arranged in 9no. blocks ranging in height from 2 – 8 storeys over 2no. independent single level basements. Private patios / terraces and balconies are provided for some apartment units (not all units have a patio, terrace or balcony). Upper level balconies are proposed on elevations of all multi-aspect apartment buildings.
- (b) Blocks A – D are located above Basement 1 (c. 6,002 sq. m gross floor area) and Blocks F – J are above Basement 2 (c. 5,058 sq. m gross floor area).
- (c) Provision 1no. childcare facility (c. 514.9 sq. m gross floor area) in Block D.
- (d) Provision of resident amenity space / communal areas (c. 1,455.7 sq. m gross floor area) in Block C and Block G.
- (e) And all associated and ancillary site development, infrastructural, landscaping and boundary treatment works including: -
 - (i) New vehicular access to / from Basement 1 from Atkinson Drive and new vehicular access to / from Basement 2 from Thornberry Road.
 - (ii) Provision of c. 9,799 sq. m public open space, including a public plaza onto Village Road and improvement works to existing open space area to the north of existing Griannan Fidh residential development.
 - (iii) Provision of 350no. car parking spaces including basement parking, set down spaces for proposed childcare facility and repositioning of set down area on Atkinson Drive.
 - (iv) Provision of 669no. bicycle parking spaces.
 - (v) Provision of 14no. motorcycle parking spaces.
 - (vi) Communal bin storage and plant provided at basement level and additional plant provided at roof level.
 - (vii) Provision of below ground wastewater storage tank (c. 500m³) and associated connection to the wastewater networks including ancillary above ground kiosk and appropriate landscaping on open space lands to the south of Griannan Fidh residential development.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions 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.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an established urban area and the zoning of the majority of the site for residential uses;
- (b) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2022-2028;
- (c) 'Housing for All – A New Housing Plan for Ireland' issued by the Department of Housing, Local Government and Heritage in September 2021;
- (d) the National Planning Framework which identifies the importance of compact growth;
- (e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) The Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority
- (g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 (including Circular Letter: NRUP 07/2022);
- (j) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in 2019;
- (k) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- (l) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (m) The pattern of existing and permitted development in the area;
- (n) The submissions and observations received;
- (o) The Chief Executive Report from the Planning Authority; and
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the nature of the receiving environment, the distances to the nearest European Sites and pathway considerations, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would

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

Environmental Impact Assessment Screening

The Board completed a preliminary examination of the nature, size and location of the proposed development and concluded that there was significant and realistic doubt in regard to the likelihood of significant effects on the environment.

Accordingly, the Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned for residential use under the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The location of the site in an established residential area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

(f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,

(g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan, the Construction & Demolition Waste Management Plan, the Operational Waste Management Plan, the Drainage Design Report, the Ecological Impact Assessment, the Archaeological Desktop Assessment, and the Flood Risk Assessment.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objectives and other policies and objectives of the Dún Laoghaire Rathdown County Development Plan 2022-2028, would constitute an acceptable quantum of development at this intermediate urban location which would be served by an appropriate level of public transport, social and community infrastructure, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential amenities of surrounding properties or the visual amenities of the area and would not detract significantly from the ecological value of the area. The development would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of traffic safety and convenience, would not be at risk of flooding, or increase the risk of flooding to other lands, and would be capable of being adequately served by wastewater and water

supply networks. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Block E shall be omitted and replaced with suitably designed open space.
 - (b) The floor to ceiling heights of all first-floor levels (i.e. the upper ground floor levels) shall be increased to at least 2.7 metres.

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

Reason: In the interests of improved layout and permeability, residential amenity, and adaptability.

3. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period, save for any other agreements made under Part V of the Planning and Development Act 2000, as amended. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

6. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
 - (a) The roads and traffic arrangements serving the site, including signage, pedestrian and cycle crossings, where required, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) Provision of additional cycle parking in line with the provisions of Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (December 2020), the final quantum of same to be agreed with the Planning Authority.

- (c) Provision of additional surface/drop off/pick up/visitor/crèche car parking spaces.
- (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (e) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.
- (f) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended, in particular with regard to carriageway widths and corner radii.
- (g) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (h) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site. In this regard, an access route to the site for construction traffic/vehicles shall not include the R113 Hillcrest Road which is subject to a three-tonne vehicular weight limit.
- (i) The east-west cycle links at the southern end of the site shall be realigned to link with the existing opening at the southeast corner of the site.
- (j) An autotrack analysis shall demonstrate appropriate basement access.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. Prior to the occupation of the development, a finalised Mobility Management Plan (Residential Travel Plan) shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

8. The area of soft landscaping above the proposed online foul storage tank to the south of Grianan Fidh shall be kept free of all structures aside from the kiosk as detailed in the submitted drawings and public access should be maintained at all times, save for the construction period and any temporary periods of repair or maintenance by Irish Water.

Reason: In the interests of recreational amenity

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

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

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

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

11. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity

12. The areas of public open space and communal open spaces, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces which prevent obtrusive light to existing and proposed residential properties and resolve light obstruction due to tree conflicts. Details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

14. Water supply and drainage arrangements, including wayleave and taking in charge arrangements, arrangements for the attenuation and disposal of surface water, and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water and the Planning Authority for

such works and services. The following requirements shall be complied with and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

(a) The use of the localised temporary detention basin adjoining the underground foul storage tank is not permitted and alternative provisions shall be made in the event of pump failure, in accordance with Irish Water's Code of Practice for Wastewater Infrastructure (July 2020, Rev 2). Proposals shall clearly demonstrate how overflow from the foul tank shall be prevented from entering surface waters.

(b) Proposals shall be submitted to demonstrate how properties will be protected from excessive surface water overland flow.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

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

Reason: In the interest of public health.

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be

submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

18. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

19. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity

20. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at site offices at all times.

Reason: In the interest of sustainable waste management.

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

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

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity

23. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed in writing with the planning authority.

Reason: To comply with the Council's taking in charge standards.

24. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

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

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with

an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Dublin City Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

28. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme, made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and

the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

Stephen Ward
Senior Planning Inspector
29th June 2023

APPENDIX 1 – List of Observers

1. Sara de Villiers
2. Margaret Fox
3. Eimear Lynch & Ross O'Brien
4. Kevin Lillis
5. Carlos Correia
6. Catherine O'Reilly
7. Darren Connolly
8. Ann Nolan
9. Franz Eiffe
10. Fergal O'Beirne
11. Sinead Fagan
12. Janet O'Donovan
13. Peter Cox
14. Patricia Stronge
15. Ciara Kelly
16. Ted Connolly
17. Hannah Dempsey
18. Megan Dempsey
19. Emma Dempsey
20. Liisa Peilow
21. Stewart Stephens
22. John & Sarah Valentine
23. Caroline Kenny
24. Joseph Mulhern
25. Patrick Hughes
26. David Hurley
27. Paraic O'Dowd
28. Rachel Ward

29. June O'Dowd
30. Melanie Ryberg
31. Bettina Dickson
32. Derek Caswell
33. Iris Moller & Colin Edwards
34. Martin O'Keefe
35. Ibrahim El Itani
36. Jane Hingerty
37. Joanne Horgan
38. Beata Cavanagh
39. Lucy Bofin
40. Aine Doohan
41. Annette Byrne & Graham Ryan
42. Barry McElhinney
43. Aoife Ni Fhearghail
44. Stephen Burnett
45. Cathal Bergin
46. David Groperrin
47. Denis O'Donnell
48. Maria O'Donnell
49. Aine O'Donnell
50. Siobhán Fitzpatrick
51. Ahmed Awadalla
52. Brendan Philbin
53. Al O'Tuathaigh
54. Ray Coleman
55. Linda Corbet
56. Gary Curran
57. Colette Hendrick
58. Tara Mulhern

59. David Horgan
60. Ronald Robbins
61. Adrian & Olivia Donohue
62. Colin Fox
63. Marie-Louise O'Reilly
64. Maurice O'Dea
65. Pauline McCarthy
66. Mark Kane
67. Nicki Cox
68. Antonio Palacios
69. Joe Fagan
70. Frank Kenny
71. Marc Ryberg
72. Lianne & Jim Tobin
73. Michael Martin
74. Francesco & Iwona Grusso
75. Stefania Romanisio
76. Bronagh Igoe
77. David Igoe
78. Alan Dwyer
79. Eamon Dempsey
80. James Dempsey
81. Eoin Stronge
82. Abigail Ellis
83. Brian Cassidy & Andrea Bacinska
84. Eoin Doohan
85. Jennifer Martin
86. Chloe Kelly
87. Mark Henry
88. Vanessa Ellis

89. Damien O'Dowd
90. David Ronaldson
91. Celine Mulhall
92. Carol Dempsey
93. Sarah Byrnes
94. Brian Mac Cartaigh
95. Lara Grey & Liam Thompson
96. Karen Whitaker
97. Paul O'Connor
98. Shane Perry
99. Chris McAdam
100. Amy Moloney
101. Ian & Caroline Corr
102. Keith O'Leary & Joanne Cavanagh
103. Stanislav Maksimov
104. Sarah Ruddock
105. Tracey Hayes
106. John Coffey
107. Fernleigh Residents Association CLG
108. Amanda Finnegan
109. Kate Curran
110. Ana Fernandez
111. Maria Dempsey
112. Wendy Walker & Keith McFall
113. Clinton Arblaster
114. Peter Philbin
115. Moira Fraser
116. Eily Esu
117. John Conway and the Louth Environmental Group

118. Cluain Shee Residents Committee & Sandyford Park Developments

Four CLG

- 119. Karola McGetrick
- 120. Brian Corkery
- 121. Andrew McDonough
- 122. Linda Mullane
- 123. Laura Greene
- 124. Alan James Curran
- 125. Mary Corkery
- 126. Joe McEvoy
- 127. Chris Gavin
- 128. Roland Tritsch
- 129. Daren Donaldson
- 130. Mark Gogarty
- 131. Martin Judge
- 132. Miriam McCarthy

Appendix 2: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP 314546-22	
Development Summary	Construction of 438 No. Built to Rent residential units and childcare facility on a c. 3.39 Ha site, together with all related ancillary development and services including a foul water/storm water storage tank of 500m3 capacity, car parking, landscaping and site works	
	Yes/ No/ N/A	Comment (if relevant)
1. Has an AA screening report or NIS been submitted?	Yes	An AA screening report has been submitted with the application.
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA.	Yes	The following has been submitted with the application: <ul style="list-style-type: none"> • An Ecological Impact Assessment (EclA) which considers the Habitats Directive (92/43/EEC) the Birds Directive 2009/147/EC) and the Water Framework Directive (2000/60/EC). • A Sustainability Report which has had regard to Part L of the Building Regulations and the Energy Performance of Buildings Directive 2010/31/EU. • A Flood Risk Assessment which considers the Floods Directive (2007/60/EC). • A Water Framework Directive Assessment and a Hydrological & Hydrogeological Qualitative Risk Assessment which have regard to the Water Framework Directive (2000/60EC) and the Habitats Directive.

		<ul style="list-style-type: none"> A Construction & Demolition Waste Management Plan which considers the Waste Framework Directive (2008/98/EC). <p>SEA and AA was undertaken by the planning authority in respect of the Dún Laoghaire Rathdown County Development Plan 2022-2028.</p>
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B. EXAMINATION	Response : Yes/ No/ Uncertain	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	<p>I have acknowledged that the scale and character is significantly different to immediately surrounding development. However, there is increasing evidence of similar higher-density apartment development in the wider surrounding area.</p> <p>I have considered the character and scale of the development in section 11.8 of this report, and I do not consider that it would significantly impact on the visual amenity, landscape, or character of the area.</p>	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>The project works will cause physical changes to the topography and land use, but I consider that these changes would be consistent with the existing and emerging pattern of development.</p> <p>The works will be appropriately managed in accordance with a Construction Environmental Management Plan (CEMP) and a Construction & Demolition Waste Management Plan (CDWMP).</p>	No

		The Water Framework Directive Assessment, Hydrological & Hydrogeological Qualitative Risk Assessment, and Flood Risk Assessment have satisfactorily demonstrated that there will be no significant effects on waterbodies.	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?	Yes	<p>The redevelopment of the land will provide a more suitable and efficient use which is consistent with the existing and planned use of the area. Approximately 75,000m³ of inert soil will be excavated and waste (construction and operational) will be disposed/re-used in accordance with waste legislation and guidance.</p> <p>The predicted water demand would be consistent with normal residential development. Irish Water have confirmed that there is adequate capacity to cater for the residential demand and it is not proposed to extract groundwater.</p> <p>The materials/minerals and energy associated with the development would be typical of urban development and would be suitably designed in accordance with the Sustainability Report and the proposed transport arrangements.</p> <p>Biodiversity resources have been considered in the EcIA and AA Screening Report and I am satisfied that there would be no significant effects on relevant habitats or species.</p>	No
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of the CEMP and CDWMP will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p> <p>Conventional waste produced from residential activity will be managed through the implementation of the OWMP.</p>	No

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?</p>	<p>Yes</p>	<p>Conventional waste produced from construction activity (3977.2 tonnes) will be managed through the implementation of the CDWMP. Approximately 90% of the waste will be reused/recycled/recovered.</p> <p>Construction noise and dust emissions are likely. Such construction impacts would be local and temporary in nature and implementation of a CEMP will satisfactorily mitigate potential impacts.</p> <p>Operational phase of project does not produce or release any pollutant or hazardous material. Conventional waste will be managed through the OWMP (c. 82.5m³ per week). Other significant operational emissions are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>Project involves underground excavation works with the construction of a basement level, and the removal/ diversion of subsurface water services infrastructure, and installation of new services infrastructure. However, it uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the CEMP to satisfactorily address potential risks in relation to contamination of land/ groundwater.</p> <p>Project includes for surface water management systems, designed, and constructed in accordance with GDSDS. Surface water will be attenuated prior to discharge to the wider drainage network. Wastewater will be discharged to the public system. The potential indirect hydrological and hydrogeological effects have been assessed in the application and throughout this report and risks of contamination are not deemed to be significant.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise, light, and vibration emissions. Such emissions will be localised, short term in nature and their impacts will be suitably addressed by the CEMP mitigation measures.</p> <p>Operational phase of project will cause noise and light impacts which would be consistent with the established residential uses in the area and would not result in significant effects.</p> <p>It has also been demonstrated that the noise, lighting or other potential disturbance impacts would not significantly impact on any habitats or species of biodiversity interest (including Habitats Directive Annex IV species such as bats and otters).</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to dust emissions but such emissions will be localised, short term in nature and their impacts will be suitably addressed by the CEMP mitigation measures.</p> <p>The site is not within a drinking water protection area and is served by public mains, and therefore water contamination is not expected to impact on human health. Any potential water impact is also be addressed by the CEMP.</p> <p>The operational phase will not result in significant effects for human health.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There is no significant Flood Risk associated with the development.</p> <p>The site is not located within the consultation distance for the closest Seveso / COMAH sites.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Project increases localised temporary employment activity at the site during construction stage. The construction stage impacts on the local population are short term and impacts arising will be temporary, localised, and addressed by the mitigation measures in the CEMP.</p> <p>The development will result in increased population in the area. This would not be significant given the existing and planned residential uses in the area and the proximity of the site to a wide range of supporting uses and facilities.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>The immediate surrounding area has been developed with housing in recent years. However, the lands on which housing has been developed are residentially zoned lands, the development of which has been foreseen by the DLRCC Development Plan 2022-2028, which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>	<p>No</p>	<p>Project not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection.</p> <p>The EclA and AA Screening report has considered the proximity and potential connections to designated/ecological sites in the wider surrounding area. Consistent with findings, I am satisfied that there would be no significant effects on same.</p>	<p>No</p>
<p>2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or</p>	<p>Yes</p>	<p>The potential for impacts has been considered in sections 11.12 and 13 of this report. The EclA has appropriately</p>	<p>No</p>

<p>around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>		<p>surveyed and classified the habitat and flora on the site and surrounding area. I would concur that any loss of habitat would be of limited value and that adequate mitigation measures have been included.</p> <p>There is no significant presence of terrestrial mammals. I am satisfied that an abundance of suitable habitat will remain, and that species would suitably acclimatise at both construction and operational stages.</p> <p>No potential bat roost features have been identified and I am satisfied that the relatively small population of common species would not be significantly affected in terms of roosts, commuting/foraging habitat, or flight lines.</p> <p>The site and surrounding area contain only a small population of common breeding and wintering (non-SCI) bird species. The proposed development will not involve significant habitat loss and the species would acclimatise to the proposed development to avoid significant effects.</p> <p>There would be no significant water quality impacts for otters and the temporary construction works would not be likely to result in significant disturbance.</p> <p>The AA Screening exercise has satisfactorily established that significant effects on European Sites would not be likely.</p>	
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>There are no significant landscape, historic, or cultural features likely to be affected by the development. Archaeological monitoring will satisfactorily address the potential for archaeological findings.</p>	<p>No</p>

<p>2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such resources on or close to the site.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>As previously outlined, the site is not at significant risk of flooding. The potential hydrological and hydrogeological connections have been acknowledged and assessed, and there is no potential for significant effects in terms of volume or water quality.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No evidence identified of these risks.</p>	<p>No</p>
<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network, public transport services (bus and rail), as well as a range of pedestrian/cycle links. I have considered the capacity of these services in sections 11.4 and 11.10 of this report and I do not consider that there would be any significant congestion effects at construction or operational stage. The development would be suitably designed and managed to promote sustainable transport modes and would not result in significant environmental problems such as excessive transport emissions etc.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>Yes</p>	<p>There are no sensitive community facilities in close proximity, and I am satisfied that there would not be excessive pressure placed on such facilities (including schools) in the wider area. The site adjoins residential development. In sections 11.6 and 11.7 of this report I have outlined that the proposal would not result in any significant effects on surrounding properties.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	The applicant's EIA Screening Report (Appendix A) outlines a comprehensive record of consented development in the area. I have also considered more recent developments (since the making of the application) and the nature and extent of existing development in the vicinity of the site. The majority of existing/planned development is of a similar residential nature and includes the potential for cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic). However, I consider that these effects are consistent with the existing and planned used of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
3.3 Are there any other relevant considerations?	No	No	No
C.CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	
Real likelihood of significant effects on the environment.	No	EIAR Not Required	

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned for residential use under the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The location of the site in an established residential area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan, the Construction & Demolition Waste Management Plan, the Operational Waste Management Plan, the Drainage Design Report, the Ecological Impact Assessment, the Archaeological Desktop Assessment, and the Flood Risk Assessment.

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

Inspector _____

Stephen Ward, SPI

Date: _____